

SECOND APPELLATE DISTRICT

Plaintiff-Appellant,

MARY SUE HUBBARD,

Intervenor-Appellant,

GERALD ARMSTRONG,

Defendant-Respondent

L.A. Superior Ct. No.C420153

EXHIBITS SUPPORTING
OPPOSITION TO MOTION TO
SEAL RECORD ON APPEAL

Gerald Armstrong
P.O. Box 751
San Anselmo, CA 94960
(415)456-8450

DECLARATION OF GERALD ARMSTRONG

I, Gerald Armstrong, declare:

1. I am the defendant in the case of Church of Scientology and Mary Sue Hubbard vs. Gerald Armstrong, Los Angeles Superior Case No. C420153. I am familiar with the records in this case and related cases or publications.

2. Attached hereto are true and correct copies of the following documents:

- Exhibit A Complaint filed August 12, 1991 in the case of Church of Scientology International vs. C. Phillip Xanthos and 16 Other Agents, No. 91-4302 SVW, in U.S. District Court in the Central District of California.
- Exhibit B Further Response to Order of July 2, 1985; Request for Stay dated January 22, 1986, and filed in Armstrong.
- Exhibit C Supplemental Memorandum in Support of Defendants's Motion to Dismiss Complaint with Prejudice; Declarations of Sam Brown, Thorn Smith, Edward Austin, Lynn R. Farny and Laurie J. Bartilson, filed August 26, 1991 in the case of Vicki and Richard Aznaran vs. Church of Scientology of California, et al. No. CV 88-1786 JMI in U.S. District Court for the Central District of California.
- Exhibit D Reply in Support of Defendants' Motion for Summary Judgment Based on the Statute of Limitations, filed August 26, 1991 in Aznaran.
- Exhibit E Declaration of Gerald Armstrong Regarding Alleged "Taint" of Joseph A Yanny, Esquire, filed September 4, 1991 in Aznaran.
- Exhibit F Defendants' Opposition to Ex Parte Application to File Plaintiffs' Opposition to Defendant's Motion to Dismiss Complaint with

Prejudice; Declaration of Laurie J. Bartilson, filed August 30, 1991 in Aznaran.

- Exhibit G Final Adverse Ruling dated July 8, 1988 from the Internal Revenue Service to the Church of Spiritual Technology.
- Exhibit H Page 70 of Plaintiff's Exhibits to Complaint filed October 6, 1988 in the case of Church of Spiritual Technology vs. United States of America, No. 581-88T in the U.S. Claims Court.
- Exhibit I Pages 370 - 372 from Miller, Russell, Bare-Faced Messiah: The True Story of L. Ron Hubbard.
- Exhibit J Pages 238 - 249 from Corydon, Bent and Hubbard, L. Ron, Jr., L. Ron Hubbard: Messiah or Madman?
- Exhibit K Pages 328 - 334 from Atack, Jon, A Piece of Blue Sky: Scientology, Dianetics and L. Ron Hubbard Exposed.
- Exhibit L Order Allowing the United States of America to Examine and Copy Exhibits 5-K, 5-L, 5-O, 5-P and 6.0 dated August 27, 1991 and filed in Armstrong.
- Exhibit M (In a sealed envelope) Notice of Motion and Motion to Enforce Settlement Agreement; for Liquidated Damages and to Enjoin Future Violations filed October 3, 1991 in Armstrong.

3. During the 1984 Los Angeles Superior Court trial in Armstrong I became acquainted with Mrs. Brenda Yates who attended many of the daily proceedings. Mrs. Yates, whose husband owned a copy service in Los Angeles at that time, offered to make copies of the reporters' transcripts of proceedings, which were being obtained daily by my attorney, Michael J. Flynn. By the end of the trial I learned that Mrs. Yates possessed a complete set of the trial transcripts. At the end of the trial I also provided Mrs. Yates for copying a complete set of the trial exhibits which I had in my possession.

This did not include any exhibits from the sealed documents which had been the subject of the trial, as these were segregated and sequestered by Judge Paul G. Breckenridge, Jr., who presided at the trial, and not copied by my attorneys or made available to the public.

4. Since the trial I have communicated with Mrs. Yates from time time right up to a few days ago when I talked with her regarding her distribution of the trial transcripts, Judge Breckenridge's June 20, 1984 Memorandum of Intended Decision and the trial exhibits. Mrs. Yates recalls that she sold and distributed approximately twenty-five copies of the complete trial transcript within the year following the trial. She recalls distributing about eight copies of the trial exhibits. She does not recall how many copies of the Breckenridge decision she distributed but felt that it was all over the world.

5. Mrs. Yates also said that she selected out of the complete transcript various parts of the trial testimony totalling about one hundred fifty pages, which she formed into a pack which she also copied, sold and distributed. She recalls that she distributed approximately one hundred of this pack.

Under penalty of perjury pursuant to the laws of the State of California I hereby declare that the foregoing is true and correct according to my first-hand knowledge, except those matters stated to be on information and belief, and as to those matters, I believe them to be true.

Executed on October 16, 1991, at San Anselmo, California.

A handwritten signature in black ink, appearing to be 'G. Armstrong', written over a horizontal line.

Gerald Armstrong

DIVISION THREE

Defendant-Respondent

(Sealed Exhibit M)

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EXHIBIT A

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14 CHURCH OF SCIENTOLOGY INTERNATIONAL

15 UNITED STATES DISTRICT COURT

16 FOR THE CENTRAL DISTRICT OF CALIFORNIA

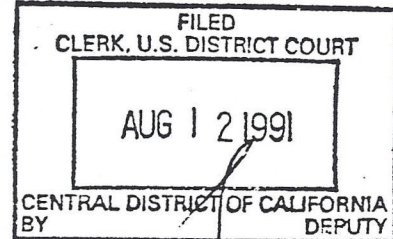
17 CHURCH OF SCIENTOLOGY
INTERNATIONAL,

18 Plaintiff,

19 vs.

20 C. PHILLIP XANTHOS; ALAN
LIPKIN; MARCUS OWENS; MARVIN
21 FRIEDLANDER; S. ALLEN
WINBORNE; ROBERT BRAUER;
22 JOSEPH TEDESCO; CHARLES
RUMPH; RAYMOND JUCKSCH;
23 MELVYN YOUNG; CARL CORSI;
GREGORY ROTH; WILLIAM
24 CONNETT; KEITH ALAN KUHN;
CHARLES JEGLIKOWSKI; MELVIN
25 BLOUGH; RODERICK DARLING;
and DOES 1 - 200,

26 Defendants.
27
28



No.

COMPLAINT FOR DAMAGES FOR AND
INJUNCTIVE RELIEF FROM:

- 91 4301 SVW(Tx)
1. FOURTH AMENDMENT VIOLATIONS;
 2. FIRST AMENDMENT VIOLATIONS;
 3. DUE PROCESS VIOLATIONS UNDER THE FIFTH AMENDMENT; AND
 4. EQUAL PROTECTION VIOLATIONS UNDER THE FIFTH AMENDMENT.

JURY TRIAL DEMANDED

JURISDICTION AND VENUE

1
2 1. As this action seeks damages for violations of
3 the United States Constitution brought under the authority of
4 Bivens v. Six Unknown Agents of Federal Bureau of Narcotics,
5 403 U.S. 388 (1971), this Court has subject matter
6 jurisdiction pursuant to 28 U.S.C. § 1331.

7 2. Venue is proper in this Court pursuant to 28 U.S.C.
8 § 1391(b) in that jurisdiction is not founded solely on
9 diversity of citizenship and the claims arose in this judicial
10 district. Venue is also proper in this Court pursuant to 28
11 U.S.C. § 1391(e) in that this is a civil action in which all
12 the defendants are or were employees of a United States agency,
13 some of whom are residents of this judicial district, which is
14 the judicial district in which plaintiff resides and in which
15 the causes of action set forth arose.

PARTIES

16
17 3. Plaintiff Church of Scientology International ("the
18 Church") is a not for profit religious corporation organized
19 and existing under the laws of the State of California, with
20 its principal place of business in Los Angeles, California. In
21 accordance with the ecclesiastical policies of the Scientology
22 religion, plaintiff is the Mother Church of the Scientology
23 religion, an internationally recognized religion engaged solely
24 in spiritual, charitable, humanitarian and community-oriented
25 endeavors intended to enhance adherents' spiritual knowledge of
26 themselves and their Creator. The Scientology religion has
27 more than 8 million members and Scientology Churches,
28 Missions and groups exist in 90 nations around the world.

1 4. Except for three who have retired from government
2 service since performing the acts hereinafter averred, the
3 defendants are, and at all relevant times were, employees of
4 the Internal Revenue Service ("IRS"). The matters averred in
5 this Complaint are largely drawn from information only recently
6 discovered by the Church in the course of Freedom of Information
7 Act ("FOIA") litigation.

8 5. As the conduct which gives rise to the Church's claims
9 of constitutional violations occurred within different divisions
10 and offices of the IRS, the defendants are grouped within their
11 respective divisions for the purposes of the following
12 identifying averments:

13 A. Los Angeles Criminal Investigation Division.

14 i. Defendant Philip Xanthos ("Xanthos") is,
15 and at all relevant times was, a Branch Chief of
16 the Los Angeles Criminal Investigation Division of
17 the IRS ("LA CID"). Upon information and belief,
18 Xanthos resides in this judicial district.

19 ii. Defendant Alan Lipkin ("Lipkin") is, and
20 at all relevant times was, a Group Manager within
21 LA CID. Upon information and belief, Lipkin
22 resides in this judicial district.

23 B. National Office Exempt Organizations.

24 i. Defendant Marcus Owens ("Owens") is
25 currently the Director of the IRS National
26 Office Exempt Organizations ("EO") Technical
27 Division, and was, at all relevant times
28 an official of the EO Technical Division. Upon

1 information and belief, Owens resides in the State
2 of Maryland.

3 ii. Defendant Marvin Friedlander
4 ("Friedlander") is, and at all relevant times was,
5 an IRS Senior Conferee Reviewer in the EO
6 Technical Division. Upon information and belief,
7 Friedlander resides in the State of Maryland.

8 iii. Defendant S. Allen Winborne ("Winborne")
9 was at all relevant times until approximately
10 1987 IRS Assistant Commissioner for Employee Plans
11 and Exempt Organizations. Upon information and belief,
12 Winborne resides in the State of Maryland.

13 iv. Defendant Robert Brauer ("Brauer") was
14 at all relevant times from approximately
15 1987 to and including approximately December, 1990, IRS
16 Assistant Commissioner for Employee Plans and Exempt
17 Organizations. Since in or about January, 1991,
18 Brauer has been the IRS District Director in
19 Pittsburgh, Pennsylvania. Upon information and
20 belief, Brauer resides in the Commonwealth of
21 Pennsylvania.

22 v. Defendant Joseph Tedesco ("Tedesco") was
23 at all relevant times until approximately 1987, Chief
24 of the National Office Exempt Organizations
25 Technical Division. Since in or about 1987,
26 Tedesco has been in retirement. Upon information
27 and belief, Tedesco resides in the Commonwealth of
28 Virginia.

1 vi. Defendant Charles Rumph ("Rumph") was
2 at all relevant times until approximately 1986,
3 an attorney in the Tax Litigation Division, Office of
4 Chief Counsel at the National Office. Although he did
5 not work in EO, plaintiff is informed and believes
6 that Rumph worked in conjunction with the other EO
7 defendants in doing the acts hereinafter averred.
8 Since in or about 1986, Rumph has been in
9 retirement. Upon information and belief, Rumph
10 resides in the District of Columbia.

11 vii. Defendant Roderick Darling ("Darling")
12 is, and at all relevant times was, an IRS tax law
13 specialist in the EO Technical Division. Upon
14 information and belief, Darling resides in the
15 State of Maryland.

16 C. Los Angeles Exempt Organizations Division.

17 i. Defendant Raymond Jucksch ("Jucksch") is,
18 and at all relevant times was, a Group Manager
19 within the Los Angeles Exempt Organizations
20 Division of the IRS ("LA EO"). Upon information
21 and belief, Jucksch resides in this judicial
22 district.

23 ii. Defendant Melvyn Young ("Young") is, and
24 at all relevant times was, a Revenue Agent within
25 LA EO. Upon information and belief, Young resides
26 in this judicial district.

27 iii. Defendant Carl Corsi ("Corsi") was at
28 all relevant times to and including

1 July, 1989, a Revenue Agent within LA EO.

2 Since in or about July, 1989, Corsi has been
3 in retirement. Upon information and belief, Corsi
4 resides in this judicial district.

5 D. Los Angeles District Counsel Office.

6 i. Defendant Charles Jeglikowski
7 ("Jeglikowski") is, and at all relevant times was,
8 an attorney within the IRS District Counsel's
9 office located in Thousand Oaks, California. Upon
10 information and belief, Jeglikowski resides in
11 this judicial district.

12 ii. Defendant Gregory Roth ("Roth") is, and
13 at all relevant times was, an attorney within the
14 IRS District Counsel's office located in Thousand
15 Oaks, California. Upon information and belief,
16 Roth resides in this judicial district.

17 E. Los Angeles District Office.

18 i. Defendant William Connett ("Connett")
19 was at all relevant times to and including
20 January, 1986, District Director of the Los
21 Angeles District Office of the IRS. Since in or
22 about 1987, Connett has been the IRS
23 Representative in Paris, France, where, on
24 information and belief, he now resides.

25 F. IRS National Office Internal Security
26 Division.

27 i. Defendant Keith Alan Kuhn ("Kuhn") is,
28 and at all relevant times was, Chief of the

1 Investigations Branch of the Internal Security
2 Division of the Office of the Chief Inspector of
3 the IRS. Upon information and belief, Kuhn
4 resides either in the State of Maryland or the
5 Commonwealth of Virginia.

6 G. St. Petersburg, Florida Exempt Organizations
7 Division.

8 i. Defendant Melvin Blough ("Blough") is, and
9 at all relevant times was, a Revenue Agent within
10 the Exempt Organizations Division of the St.
11 Petersburg, Florida office of the IRS. Upon
12 information and belief, Blough resides in the
13 state of Florida.

14 6. Upon information and belief, IRS employees other than
15 those named as defendants in this action performed acts which
16 are unlawful and unconstitutional in connection with the facts
17 set forth in this complaint. The Church will seek leave of
18 Court to amend this complaint when the IRS employees not named
19 as defendants, but whose conduct warrants their inclusion as
20 defendants in this action, are identified.

21 NATURE OF PLAINTIFF'S CLAIMS

22 7. By this action, the Church seeks damages for
23 violations of its First, Fourth, and Fifth Amendment rights
24 arising from the conduct of the defendants and others within
25 the Internal Revenue Service. While this action focuses on
26 recent events, it is the culmination of three decades of IRS
27 coercion in violation of the Free Exercise Clause of the First
28 Amendment, discriminatory treatment in violation of the

1 Establishment Clause of the First Amendment and the Equal
2 Protection component of Due Process under the Fifth Amendment,
3 as well as the denial of procedural Due Process rights in
4 violation of the Fifth Amendment, and actions in violation
5 of the Church's Fourth Amendment rights.

6 8. Although the IRS has withheld the vast majority of
7 documents requested by Churches of Scientology under the FOIA,
8 the limited FOIA information recently discovered by the Church
9 through the production of documents and testimony demonstrates
10 the actionable conduct hereinafter averred. This action,
11 moreover, does not arise in a vacuum. It is an outgrowth of
12 IRS conduct that includes:

13 a. Efforts by the IRS' Chief Counsel's
14 office to persuade at least one municipal
15 authority to find "local statutes and ordinances
16 available as tools to curtail or close down"
17 Scientology Churches;

18 b. Employment of "plants" to infiltrate
19 Scientology Churches to obtain copies of Church
20 records;

21 c. Recommendations of the IRS Chief Counsel
22 that "defining church in regulations is one method
23 to attack Scientology," which recommendation was
24 followed by the formulation of such a definition
25 in General Counsel Memorandum 36078 entitled
26 "Church of Scientology" (later promulgated as
27 Revenue Ruling 76-415);

28 d. Targeting the Church of Scientology as

1 "subversive," and conducting non-tax-related
2 surveillance and intelligence gathering that a
3 United States Senate Subcommittee would later find
4 was "used to stigmatize, to set a group of
5 individuals and organizations apart as somehow
6 inherently suspect ... " and which a Senate Select
7 Committee found to be "an effort to employ tax
8 weapons for essentially nontax purposes";

9 e. IRS documents which refer to the
10 Scientology religion as "religious bunco" and a
11 "grab-bag of philosophical voodooism," as well as
12 IRS tape recordings of witness interviews in which
13 defendants Young, Corsi and Roth referred to
14 Scientologists as "crazy devotees," characterized
15 Scientology's religious services as a "dog and
16 pony show," compared adherence to the Scientology
17 faith to drug addiction, and called the religion
18 itself a "facade"; and

19 f. Encouragement given by Corsi, Young and Roth
20 to individuals pursuing civil cases involving claims for
21 damages against plaintiff and other Scientology Churches.

22 9. The claims for relief asserted in this action arise
23 from the demise of a two-year criminal investigation of
24 plaintiff, other Scientology Churches, and individual
25 Scientologists that produced no indictments, no charges, and
26 nothing more than the refusal of the Department of Justice to
27 take any action with regard to that lengthy investigation. In
28 the aftermath of that investigatory debacle, defendants, as is

1 more fully averred later in this complaint, embarked upon a
2 course of conduct which has included:

3 a. EO employees demanding documents from
4 plaintiff and other Scientology Churches
5 ostensibly to evaluate applications for exemption
6 under 26 U.S.C. § 501(c)(3), while in reality
7 making such demands so that those documents could
8 be turned over to IRS criminal investigators in
9 violation of the Fourth Amendment;

10 b. Inauguration of nationally and
11 locally coordinated campaigns to single out
12 plaintiff and other Churches of Scientology as
13 targets for tax inquiries because they were
14 Churches of Scientology, and to use such inquiries
15 as a means to generate otherwise unavailable tax
16 liabilities such as under the Federal Insurance
17 Contribution Act and the Federal Unemployment Tax
18 Act in violation of the Establishment and Free
19 Exercise Clauses of the First Amendment and the
20 Equal Protection component of the Due Process
21 Clause of the Fifth Amendment; and

22 c. Embarking on a nationally and
23 locally coordinated campaign of collections
24 activity which arbitrarily and capriciously
25 freezes and attempts to freeze bank accounts of
26 plaintiff and other Scientology Churches for
27 alleged tax obligation of still other Scientology
28 Churches without notice and without any

1 opportunity to be heard before seizing plaintiff's
2 property in violation of the Due Process Clause of
3 the Fifth Amendment.

4 FIRST CLAIM FOR RELIEF

5 (For First, Fourth and Fifth Amendment Violations by
6 Defendants Xanthos, Lipkin, Owens, Friedlander,
7 Darling, Winborne, Tedesco, Rumph, Jucksch)

8 10. The Church repeats and realleges each and every
9 averment set forth in paragraphs 1 through 9, inclusive.

10 11. The Scientology religion has been in existence for
11 nearly four decades. From its earliest days, it has been a
12 target of IRS scrutiny and hostility. After years of
13 controversy and litigation, the IRS agreed with various
14 Churches of Scientology to conduct an examination of a
15 representative church and issue an exemption ruling based upon
16 that examination for the representative church and all others
17 similarly situated.

18 12. The IRS, for 25 consecutive days in March and April
19 1975, conducted an exhaustive examination of the Church of
20 Scientology of Hawaii ("the Hawaii Church"), addressing every
21 aspect of that church's operations, including Scientology
22 beliefs and practices. As a result of that examination, Church
23 of Scientology of Hawaii and twelve other Scientology churches
24 were granted exemptions under 26 U.S.C. § 501(c)(3).

25 13. The grant of exemption to the Hawaii Church followed
26 an unsuccessful attempt by the IRS to employ a litigation tactic
27 appropriately described as "harass and moot" to avoid judicial
28 adjudication of the exemption issue. When the Hawaii Church

1 filed suit contesting the IRS' 1969 denial of exemption, the
2 IRS tendered a refund of the taxes to avoid an unfavorable
3 court decision. When the Church refused the refund and pressed
4 for a judicial determination, the IRS moved to dismiss claiming
5 that the issue had been rendered moot. After the Ninth Circuit
6 rejected this litigation ploy, the IRS settled the case and
7 later granted exemption. The IRS, however, continued to resist
8 applications for exemption by Scientology churches despite the
9 fact that its only thorough, comprehensive examination of any
10 church had resulted, begrudgingly, in more than a dozen
11 exemptions.

12 14. Exemption applications for plaintiff Church of
13 Scientology International, Church of Spiritual Technology and
14 Religion Technology Center were filed with the Internal Revenue
15 Service in 1983. These exemption applications were forwarded
16 to the IRS National Office by the local offices where they were
17 filed. Responsibility for the exemption applications resided
18 with defendants Owens, Friedlander, and Tedesco of the
19 National Office EO working in conjunction with defendant Rumph
20 of the Office of the Chief Counsel. EO requested additional
21 information of the filing entities. Discussions between Church
22 counsel and the IRS personnel processing the applications began
23 with regard to the IRS' requests for additional information,
24 and at the request of those defendants the applicants provided
25 further information to the IRS based on the belief that the
26 newly formed churches all qualified for exemption and that the
27 IRS was acting in good faith in the negotiations. EO letter
28 requests to plaintiff and the other applicants dated July 30

1 and October 5, 1984 and January 18 and April 22, 1985 requested
2 the applicants comment on specific allegations made by LA CID
3 informants that were at the heart of the ongoing CID
4 investigation. FOIA records and discovery in FOIA litigation
5 reveal a continuous flow of information from EO to LA CID.

6 15. It is now clear, however, that defendants and the IRS
7 were not dealing in good faith, but rather, were merely asking
8 for and receiving voluminous financial and other records from
9 plaintiff and the other churches without any intention of ever
10 granting any section 501(c)(3) exemptions and as an unlawful
11 means of obtaining data for LA CID. The use of the exemption
12 process to obtain information for a criminal investigation
13 deprived plaintiff of its rights guaranteed by the First,
14 Fourth and Fifth Amendments to the United States Constitution,
15 and violated specific IRS rules designed to protect those
16 rights. The Internal Revenue Manual contains specific
17 provisions which require EO to "immediately suspend" an inquiry
18 if EO learns that "an assigned case involves a taxpayer who is
19 the subject of a criminal investigation." The EO agents
20 responsible for plaintiff's exemption application did not
21 suspend the civil proceeding, but instead continued to use it
22 as a means for gathering information for CID.

23 16. Between 1984 and 1986, LA CID conducted an extensive
24 criminal investigation of plaintiff, other Scientology
25 churches, and individual Scientologists, under the auspices of
26 defendant Connett, the then-District Director, defendant
27 Xanthos, the LA CID Branch Chief and defendant Lipkin, the
28 assigned LA CID Group Manager. That investigation included the

1 use of mail covers, paid informants, summonses to dozens of
2 financial institutions and church members, and infiltration of
3 Scientology's ecclesiastical hierarchy. The infiltration of
4 the Church was planned as an undercover operation by the
5 LA CID along with former Church member Gerald Armstrong, who
6 planned to seed church files with forged documents which the
7 IRS could then seize in a raid. The CID actually planned to
8 assist Armstrong in taking over the Church of Scientology
9 hierarchy which would then turn over all Church documents to
10 the IRS for their investigation. The CID further coordinated
11 this plan with the Ontario Provincial Police in Canada, through
12 direct contacts and exchange of information, hoping that
13 through simultaneous assaults the "momentum of . . . charges
14 will cause [Scientology] to collapse." Thus, the documents
15 being channelled from EO to CID were being used for the
16 unlawful purpose of forwarding criminal investigations in both
17 the United States and in Canada.

18 17. That criminal investigation, the results of which
19 were ultimately rejected in full by the Department of Justice,
20 was doomed from its inception because it was based upon a
21 faulty premise -- that plaintiff and the other Churches were
22 engaging in criminal conduct (conspiracy to interfere with the
23 collection of taxes) by the mere fact that they had applied for
24 section 501(c)(3) exemptions. In other words, at the time that
25 EO was allegedly processing the exemption applications, the IRS
26 had already made a determination that the exemption
27 applications were criminal instruments because the applying
28 churches had already been prejudged as non-exempt.

1 18. The IRS personnel charged with responsibility for the
2 exemption applications -- defendant Friedlander, and his
3 superiors Owens, Tedesco and Winborne -- were fully aware of
4 the ongoing criminal investigation, yet despite the fact that
5 the Fourth and Fifth Amendment and IRS written procedures
6 mandate that all civil IRS proceedings concerning a given tax
7 period be suspended during the time in which a criminal
8 investigation of that same period is in progress, EO personnel
9 continued to request and receive information and documents
10 from plaintiff and the other Churches and delivered such
11 information and documents to defendants Xanthos, Lipkin and the
12 other LA CID personnel conducting the criminal investigation.

13 19. In late July 1984, the Church learned through the
14 media that LA CID had initiated a criminal investigation
15 relating to Scientology organizations and individuals. Leaks
16 to the media regarding the CID investigation had already
17 resulted in unfavorable and harmful media reports, prior to the
18 time when the organizations and individuals became aware that
19 they were under investigation. In response to one such
20 article, Church counsel contacted defendant Connett who
21 confirmed that an investigation of Scientology's founder, L.
22 Ron Hubbard, and another Scientologist was in progress, but who
23 expressly misrepresented to counsel that the criminal
24 investigation was separate and distinct from the ongoing
25 exemption application process, and encouraged the Church to
26 continue the application process. Connett, with the assent
27 of defendants Friedlander and Winborne, told the Church's
28 attorneys that the CID investigation did not directly involve

1 any of the applicants and might not lead to charges being
2 filed. He stated that in that case, it would not make sense to
3 drop the existing team which was developing the exemption
4 applications. The truth of the matter was that defendants
5 Friedlander and Tedesco were turning material over to LA CID,
6 either directly, through Connett, or through the Los Angeles
7 Exempt Organizations Division (which was staffed by defendants
8 Jucksch, Corsi, and Young).

9 20. Connett did not merely misrepresent the status of the
10 CID investigation to the Church. He also set into motion the
11 coordination between the National Office employees processing
12 the exemption applications, and the agents of the CID. In
13 January 1985, Friedlander contacted Xanthos and his superior,
14 CID Chief Ronald Saranow, at the suggestion of defendant
15 Connett for the purpose of obtaining information from CID's
16 files. Friedlander informed defendant Tedesco of his plan to
17 travel to Los Angeles along with defendant Rumph, for the
18 purpose of reviewing CID's materials as well as CID's "draft
19 prosecution letter." In order to prevent plaintiff and the
20 other churches from learning of the CID investigation,
21 Friedlander proposed that EO and CID could mutually coordinate
22 when or if any CID material would be included in any
23 applicant's administrative file to preclude premature
24 disclosure. Tedesco approved of the trip, as did defendant
25 Winborne, who stated they should leave when ready.

26 21. In approximately February 1985, during the course of
27 EO's information gathering on behalf of LA CID, defendants
28 Friedlander and Rumph traveled to Los Angeles and met with

1 defendant Lipkin to acquire information about the criminal
2 investigation and to learn of the criminal investigators' areas
3 of interest so that EO and LA CID might work together more
4 efficiently. At that time, Friedlander was provided with a
5 draft copy of a "Special Agent's Report" ("SAR") prepared by the
6 LA CID defendants, Xanthos and Lipkin, requesting prosecution of
7 various Scientology Churches, entities, members and their
8 counsel, and setting forth the theories of prosecution.
9 Friedlander thereafter sought information from plaintiff and the
10 other applicants relating to areas addressed in the draft SAR,
11 representing that the information was necessary for EO's
12 evaluations of the pending exemption applications. The
13 information requested by Friedlander was supplied to EO, and
14 thereafter forwarded by EO to LA CID to assist in the criminal
15 investigation. Friedlander kept defendants Owens, Tedesco and
16 Winborne informed regarding the provision of information by EO
17 to LA CID. Moreover, Friedlander, knowing that he should have
18 suspended the EO examination in light of the pending CID
19 investigation, consulted agents of LA CID as well as Tedesco,
20 Winborne and others concerning the requirement of suspending
21 the EO proceeding. Friedlander was specifically directed to
22 continue the exemption process, and he did so.

23 22. Following Friedlander's return from viewing CID's
24 files in Los Angeles, EO employee Roderick Darling communicated
25 with Friedlander regarding the use of the CID materials.
26 Darling suggested that EO could pose questions to the Church
27 based on certain documents in CID's files, since it would not
28 involve reliance on any testimony solicited by CID and,

1 therefore, would not expose the IRS to the charge that the IRS
2 EO function had allied itself with CID or was tainted by CID's
3 conspiracy theories. Darling also informed Friedlander that
4 CID hoped that EO would somehow be able to extract information
5 from the Church, and that EO would be able to turn up something
6 which CID had not been able to. In March 1985, defendants
7 Lipkin and Connett attended a meeting at the National Office to
8 discuss the pending exemption applications with defendants
9 Friedlander, Winborne, Rumph and Tedesco. They discussed the
10 possible timing of denials of exemption to coincide with the
11 CID's prosecution. Connett also assured the EO defendants that
12 CID would provide them with the Special Agent's Report when it
13 was completed.

14 23. Numerous instances of the provision of information
15 from defendants responsible for EO functions to defendants
16 responsible for LA CID functions are presently known to
17 plaintiff through FOIA requests, FOIA litigation and discovery
18 in such actions, and numerous other instances of such unlawful
19 acts are believed to exist but have not yet been discovered by
20 plaintiff. The IRS has even attempted to thwart such Freedom
21 of Information Act discoveries by improperly withholding
22 documents and portions thereof concerning the unlawful
23 collusion between EO and CID which should have been released.
24 The IRS has improperly asserted that records revealing the
25 collusion were not discloseable based on the IRS' "deliberative
26 process privilege," and thereby seeking to keep its unlawful
27 acts from coming to view.

28 24. To prevent the revelation of the unlawful and

1 unconstitutional collusion between EO and LA CID, Friedlander
2 destroyed copies of memoranda and notes taken during his visits
3 to LA CID, and on information and belief, notes of subsequent
4 telephone communications with Lipkin and others. Friedlander
5 also destroyed documents he requested from LA CID because he did
6 not want to place them in the application files and thereby be
7 required to supply them to the applicant churches. Darling
8 also supplied documents obtained during EO's examination to LA
9 CID for its use in its criminal investigation and received a
10 copy of the draft SAR.

11 25. The initial conduit for transmitting information and
12 documents from the Church through the EO in Washington, D.C.
13 (defendants Owens, Tedesco, Rumph, Darling and Friedlander) to
14 LA CID (defendants Xanthos and Lipkin, under the supervision of
15 defendant Connett) was the Los Angeles Exempt Organizations
16 Division (defendants Jucksch, Corsi and Young). At some time
17 during the concurrent EO examination and LA CID criminal
18 investigation, defendant Connett agreed to assume personal
19 responsibility for transmitting the material from EO to LA CID.

20 26. Plaintiff and the other applicant Churches were
21 unaware that EO and LA CID were colluding with one another
22 behind the scenes, and continued to cooperate with EO personnel
23 in conducting the examinations which the IRS represented were
24 being conducted in good faith. Any potential suspicions by
25 plaintiff or the other Churches that the information gathering
26 may not have been completely for civil purposes, were allayed by
27 the receipt of a letter to CST dated July 26, 1985, written by
28 Friedlander and Darling, in which they stated: "We assure you

1 that our questions (in previous correspondence) have heretofore
2 been solely directed at developing the applications to the
3 point where your purpose and activities have been sufficiently
4 described in accordance with the standards for issuing rulings
5" These representations were fraudulent, as the SAR,
6 written 2 months earlier, unequivocally called for denial of
7 tax exemption.

8 27. Notwithstanding that representation, EO continued to
9 gather information for use by LA CID. A copy of the SAR
10 obtained in FOIA litigation makes it clear that the purpose of
11 the defendants who participated in the EO - LA CID collusion was
12 for defendants to combine their efforts to create "another round
13 of denial of exempt status," a circumstance which the SAR states
14 was intended to cause "a final halt to" and "the ultimate
15 disintegration of" the Scientology religion.

16 28. In September of 1985, plaintiff and the other
17 applicants learned that LA CID had forwarded a recommendation
18 for criminal prosecution to the IRS LA District Counsel's
19 office, and that at least RTC and CST were named as targets of
20 the investigation. On information and belief, plaintiff was
21 also a target of the criminal investigation. By December 1985,
22 the District Counsel's office had concluded that the SAR did
23 not warrant immediate prosecution and forwarded the matter to
24 the Justice Department with a request that an investigative
25 grand jury be convened.

26 29. The request for a grand jury coincided with the
27 January 7, 1986 issuance of letters by the IRS National Office
28 proposing the denial of exempt status to plaintiff, RTC and

1 CST. Defendant Friedlander made the decision to issue those
2 letters at that time. At the same time, January of 1986,
3 defendants Jucksch, Corsi and Young, on behalf of the IRS' LA
4 Exempt Organizations Division, prepared to launch a third prong
5 of attack (to coincide with the grand jury request and the
6 proposed exempt status denials) in the form of examinations
7 conducted by LA EO. Those examinations were an outgrowth of
8 the stalled LA CID investigation, and LA EO defendant Corsi had
9 held a series of meetings during the course of the criminal
10 investigation with LA CID defendant Xanthos.

11 30. The three prongs of attack which defendants had
12 coordinated to begin in January 1986 were all delayed, first,
13 because the Justice Department did not convene a grand jury
14 and, second, because plaintiff, RTC and CST submitted an
15 approximately 500-page protest of the proposed exemption
16 denials.

17 31. By October 1986, LA CID's criminal investigation of
18 the various Scientology Churches and individuals was
19 moribund, and since the Justice Department had refused to
20 pursue the matter before a grand jury, the case was about to be
21 officially closed. By that time, the protests to the proposed
22 denial of exempt status had bogged down the efforts of the EO
23 defendants. In October 1986, with the investigation about to
24 close, agents of LA CID attempted to utilize the news media to
25 revive the investigation. The October 1986 issue of "Forbes"
26 magazine contained an article by writer Richard Behar which
27 falsely stated that the CID investigation was "gathering
28 momentum." On information and belief, these and other

1 allegations which appeared in the Forbes article were "leaked"
2 to Behar by defendants Lipkin with the knowledge and consent of
3 defendant Xanthos to encourage the Department of Justice to
4 more seriously consider the allegations set forth in the
5 Special Agents Report. Indeed, Behar openly applauded the
6 SAR's stated goal - the "ultimate disintegration" of the
7 Church - in a recent Time magazine article. Defendant Owens,
8 in turn, was quoted by Behar in the recent article, stating
9 that there have been thousands of IRS agents involved in Church
10 related tax matters for years. The IRS also apparently
11 provided Behar with information concerning the Church's FOIA
12 cases, as Behar was able to report on the number of such
13 matters filed. Thus, the IRS' pattern of utilizing media to
14 flank its actions against the Church continues to the present.

15 32. In November 1986, the Department of Justice rejected
16 the request made by LA CID through LA District Counsel to
17 convene a grand jury to continue the criminal investigation.
18 The LA CID defendants, however, remained undaunted, and further
19 sought to exploit their collusive connection to the EO and the
20 LA EO defendants. In that regard:

21 a. On or before December 16, 1986, defendant
22 Lipkin of LA CID met with defendant Corsi of LA EO
23 to arrange for a meeting between Lipkin and
24 Corsi's Group Manager, defendant Jucksch. At that
25 December meeting, Lipkin discussed the LA CID
26 files on the Church with Corsi and explained that
27 defendant Friedlander of National Office EO had
28 reviewed those files;

1 b. Defendants Lipkin, Corsi, and Jucksch met
2 on January 5, 1987 to coordinate further actions
3 with respect to plaintiff and other Scientology
4 Churches;

5 c. In conjunction with National Office EO,
6 LA CID and LA EO planned, coordinated, and
7 implemented a plan to audit fourteen Churches of
8 Scientology and two related trusts, all already
9 exempt; and

10 d. LA District employees were invited to the
11 National Office to review the data submitted by
12 plaintiff, CST and RTC during the exemption
13 application process.

14 Plaintiff and the other applicants, unaware of the ongoing
15 collusion among the EO, LA EO, and LA CID defendants, continued
16 to negotiate with EO to attain rulings of exempt status under 26
17 U.S.C. § 501(c)(3). Those negotiations continued throughout
18 1987.

19 33. As a result of the conduct of the defendants, and
20 each of them, plaintiff has been coerced into diverting
21 resources and attention away from the pursuit of its religious
22 beliefs in order to defend itself against defendants' actions.
23 Plaintiff also has been burdened in the free exercise of its
24 religious beliefs by the intrusion of defendants into its
25 records practices, beliefs and ecclesiastical structure and
26 policies by the defendants as is hereinabove averred. Such
27 coercion and burden each constitutes a violation of the Free
28 Exercise Clause of the First Amendment to the United States

1 Constitution.

2 34. The collusion between the EO defendants, the LA EO
3 defendants, and the LA CID defendants by which plaintiff was
4 misled to believe that documents sought by defendants were for
5 the purpose of a good faith exemption examination (rather than
6 a sham exemption examination) when in fact such documents were
7 being funnelled directly to criminal investigators, constitutes
8 a violation of the Fourth Amendment to the United States
9 Constitution.

10 35. The defendants, and each of them, by their conduct
11 alleged herein, have singled out plaintiff for invidious
12 discrimination in the application of the laws of the United
13 States on the basis of plaintiff's religious affiliation, in
14 violation of the Equal Protection component of the Due Process
15 Clause of the Fifth Amendment to the United States Constitution.

16 36. The conduct of the defendants, and each of them, has
17 been arbitrary and capricious, and has resulted in the
18 deprivation of plaintiff's property. Such conduct, motivated
19 by religiously rooted bias and prejudice, is a violation of the
20 Due Process Clause of the Fifth Amendment to the United States
21 Constitution.

22 37. Plaintiff has been damaged and continues to be
23 damaged thereby in an amount to be proven at trial. That
24 amount is not presently capable of precise calculation but
25 is believed to be in excess of \$20,792,850 which represents
26 direct expenditures by plaintiff. Plaintiff has also suffered
27 consequential and resulting damages in an amount to be proven
28 at trial, but which is in an amount in excess of \$100 million.

1 SECOND CLAIM FOR RELIEF

2 (For First and Fifth Amendment Violations by All Defendants)

3 38. The Church repeats and realleges each and every
4 averment set forth in paragraphs 1 through 35, inclusive.

5 39. On or about December 4, 1987, defendant Friedlander
6 informed Church representatives that the IRS insisted upon a
7 "limited" review of the financial records of plaintiff RTC,
8 and CST for 1986, to be conducted by the Los Angeles District
9 Office, for the purpose of verifying the integrity of their
10 records and to rule out the existence of any private inurement,
11 the only remaining potentially disqualifying factor. In early
12 1988, defendants Friedlander and Brauer assured plaintiff of
13 favorable exemption determinations as long as the limited
14 review did not uncover inurement or an inadequate accounting
15 system.

16 40. Those representations were false. Documents released
17 by the IRS in later FOIA litigation included drafts of final
18 denial letters for plaintiff, RTC and CST written by
19 Friedlander and Darling in January of 1988, at the very time
20 when defendants Brauer and Friedlander were representing to
21 Church counsel that exemption was imminent. In fact, the
22 representations were no more than a ploy to entice plaintiff and
23 the other Scientology Churches to continue turning over
24 detailed information to the IRS in violation of the Church's
25 civil and constitutional rights.

26 41. On March 17, 1988, the National Office provided
27 plaintiff, RTC and CST with new letters of assurance stating
28 that the IRS was prepared to conduct a review so that "we may

1 complete favorable consideration" of the exemption
2 applications. The letters further stated that the purpose of
3 the review was to "determine the integrity of your financial
4 and accounting systems" and "verify that no part of your net
5 earnings inures to the benefit of any private shareholder or
6 individual and that there is no other disqualifying activity."
7 Each Church executed its letter of assurance, permitting the
8 extremely unusual process of an on-site document review of
9 plaintiff's records to proceed.

10 42. Extensive, on-site reviews began, starting with CST,
11 in March of 1988. Despite the initial statement by Friedlander
12 that the review would be limited, the Los Angeles office
13 initially assigned four full-time agents to the review, and
14 after eight weeks, another four full-time agents were added.
15 This staffing represented 48 personnel weeks or roughly one
16 year of IRS time. Friedlander and his superior, defendant
17 Owens, testified that these examinations were the "most
18 sweeping" examinations these officials had witnessed, "far
19 exceeding" any they had previously experienced, and that the
20 volume of information provided was "truly record-breaking."

21 43. The examination of CST was completed on June 2, 1988.
22 At that time, the IRS Branch Chief responsible for the review
23 stated that the agents had found nothing to show inurement and
24 affirmed that, as to CST, "we have no concerns at this time."
25 These statements confirm the findings of a memorandum written by
26 defendant Friedlander in November 1987 which stated that private
27 benefit ceased to be an issue following the death of L. Ron
28 Hubbard in January 1986. Following the completion of the

1 examination fo CST, the IRS Los Angeles office began its review
2 of RTC, which was completed in June 1988 -- again with no
3 concerns raised by the agents.

4 44. On June 22, 1988, the Church discovered that in May
5 1988, defendants Corsi, Young and Roth secretly interviewed two
6 disaffected Scientologists, Richard and Vicki Aznaran, who were
7 suing CSI and other Scientology churches. Prior to leaving the
8 Scientology faith in 1987, Vicki Aznaran had served as one of
9 RTC's officers. These defendants had engaged in deceitful
10 conduct designed to prevent the Churches from discovering that
11 the IRS investigation was actually proceeding on two tracks:
12 one known to the Churches, which was based ostensibly on good
13 faith cooperation between the churches and the IRS, and the
14 other which was covert and designed to undermine the progress
15 the Churches believed had been made towards the granting of
16 exempt status. The discovery of this conduct raised serious
17 concerns about whether the IRS was proceeding in good faith and
18 in accordance with the March 17, 1988 agreement. The Churches
19 immediately sought a meeting with the IRS to discuss their
20 concerns.

21 45. It was later revealed that defendant Lipkin of the
22 CID was instrumental in arranging the interview of the Aznarans
23 by the EO agents, thus demonstrating the continuing ties
24 between EO and CID. Plaintiff, RTC and CST were also not aware
25 at the time that the two senior LA EO agents in the
26 examination, defendants Young and Corsi, had met several times
27 with LA CID during the review, that defendant Lipkin had
28 briefed all of the agents involved in conducting the review,

1 and that defendants Corsi and Young had by this time received
2 and reviewed the Special Agent's Report. Thus, CID collusion
3 with LA EO did not end in 1985 when IRS District Counsel
4 rejected CID's request for prosecution, nor in 1986 when the
5 Justice Department refused to convene a grand jury.

6 46. During their interview of the Aznarans, defendants
7 Corsi, Young and Roth openly displayed their animus toward the
8 Church and the Scientology religion. The agents referred to
9 Church religious services as a "dog and pony show", and
10 referred to members of the Church as "crazy devotees".
11 Defendant Young actually encouraged the Aznarans to "take a
12 stand" against the Church. Defendant Roth compared the
13 Scientology religion to drug addiction. These actions violate
14 Internal Revenue Service policies which require an employee to
15 maintain "strict impartiality" between the taxpayer and the
16 government. These agents, who openly denigrated the
17 Scientology religion, should have been removed from any
18 examinations of Scientology churches under The Internal Revenue
19 Manual, Handbook of the Rules of Conduct which indicates that
20 an agent should be removed if his actions could lead others
21 reasonably to question the employee's impartiality. I.R.M.
22 0735.1, Handbook of Employee Responsibilities and Conduct
23 § 232.21, MT 0735.1-17 (November 26, 1986).

24 47. On June 22, 1988, plaintiff contacted IRS
25 representatives from the Los Angeles office and asked why the
26 the summonses had been issued to the Aznarans. The IRS refused
27 to discuss the interview or confirm that it had taken place.
28 Church counsel informed the IRS that the document review was

1 accordingly being suspended until the matter was resolved with
2 the National Office. On June 24, 1988, in response to a letter
3 from the Church regarding its concerns that the document review
4 was apparently being conducted in bad faith, defendant
5 Friedlander admitted that the IRS "owed [the churches] an
6 explanation."

7 48. In January of 1988, prior to the start of the on site
8 review, final adverse determinations were already drafted and
9 circulated by Friedlander and Darling. After June 27, 1988,
10 while the Churches were awaiting defendant Friedlander's
11 promised explanation, the IRS finalized the adverse
12 determination letters from the pre-existing drafts without
13 substantive amendment. On July 7, 1988, the IRS informed CST
14 that in its view the IRS had proceeded in accordance with the
15 March 17 agreement and that it viewed the suspension of the
16 audit as a termination of that agreement.

17 49. The following day, July 8, 1988, plaintiff and the
18 other Churches wrote the IRS reiterating that they had not
19 terminated the examination, but were waiting for the promised
20 explanation regarding the Aznaran interview. The letters stated
21 that the Churches did wish to fulfill the terms of the March 17,
22 1988 agreement, and that all they sought was a meeting with the
23 IRS to clarify matters before the examination procedure
24 resumed. That same day the IRS issued final adverse ruling
25 letters to all three churches denying tax-exempt status. These
26 letters were nearly identical to those drafted six months
27 earlier by Friedlander and Darling. Despite previous
28 assurances to the contrary, the denials of the applications of

1 plaintiff and RTC were based, in part, on alleged commercialism
2 in the sale of religious goods and services.

3 50. The IRS on-site review procedure was an utter sham,
4 designed not to make any good faith determination of the tax
5 exempt status of plaintiff, but merely to continue to
6 collect information which would not otherwise have been
7 provided to the IRS. The on-site reviews also included
8 examination of myriad ecclesiastical and confidential Church
9 scriptural materials and other materials concerning the
10 religious practices of the Churches which had no reasonable
11 relation to any tax exemption issue.

12 51. The defendants, and each of them, by their conduct
13 alleged herein, have singled out plaintiff because of its
14 position as Mother Church of the Scientology religion and,
15 through those acts, have invidiously discriminated against
16 plaintiff in their application of the laws of the United
17 States, in violation of the Establishment Clause of the First
18 Amendment to the United States Constitution.

19 52. The defendants, and each of them, by their conduct
20 alleged herein, have singled out plaintiff for invidious
21 discrimination in the application of the laws of the United
22 States on the basis of plaintiff's religious affiliation, in
23 violation of the Equal Protection component of the Due Process
24 Clause of the Fifth Amendment to the United States Constitution.

25 53. The conduct of the defendants, and each of them, has
26 been arbitrary and capricious, and has resulted in the
27 deprivation of plaintiff's property. Such conduct, motivated
28 by religiously rooted bias and prejudice, is a violation of the

1 Due Process Clause of the Fifth Amendment to the United States
2 Constitution.

3 54. Plaintiff has been damaged and continues to be
4 damaged thereby in an amount to be proven at trial. That
5 amount is not presently capable of precise calculation but
6 is believed to be in excess of \$20,792,850 which represents
7 direct expenditures by plaintiff. Plaintiff has also suffered
8 consequential and resulting damages in an amount to be proven
9 at trial, but which is in an amount in excess of \$100 million.

10 THIRD CLAIM FOR RELIEF

11 (For First and Fifth Amendment Violations by All Defendants)

12 55. The Church repeats and realleges each and every
13 averment set forth in paragraphs 1 through 54, inclusive.

14 56. The IRS began additional harassive actions against
15 plaintiff and Scientology parishioners commencing in October,
16 1988, when the IRS issued letters to several Scientologist
17 taxpayers, who had claimed deductions on their tax returns for
18 money paid to their Scientology churches for religious
19 services, informing them that their cases were part of a
20 "designated tax shelter litigation project entitled
21 Scientology." Such a designation was blatantly improper and
22 demonstrated discriminatory bias and creation of a suspect
23 category of members of the Scientology religion.

24 57. Similarly, on February 14, 1989, the IRS office in
25 Laguna Niguel, California sent a letter to two Scientologists
26 concerning Church-related deductions, stating that no deduction
27 would be allowed as they had not shown that Scientology is
28 "other than a sham designed for the purpose of claiming

1 fictitious charitable contributions." This statement, too, was
2 blatantly false and the result of bias, since even the IRS has
3 repeatedly acknowledged that Scientology is a bona fide
4 religion and that Scientology churches are bona fide churches.
5 The IRS was forced to correct their files to delete these
6 references after the Scientologists who received this letter
7 prevailed in Smith v. Brady, No. CV 89-2584-RG(Bx) (C.D.
8 Cal. 1990). Indeed, the IRS acknowledged that such
9 designations were improper in a national office memorandum
10 issued in 1986, yet the IRS continued labelling Scientologists
11 as tax protestors as late as 1989.

12 58. Documents obtained in FOIA litigation reveal an
13 entire set of procedures set up for the purpose of targetting
14 the tax returns of individual Scientologists, monitoring and
15 coordinating the investigations of these individuals, and
16 falsely designating them as "tax protestors." These documents,
17 from the Los Angeles District, show that the returns of
18 Scientologists who claim deductions for their contributions to
19 the Church are designated with a special code for "Alleged
20 Contributions (incl. Scientology & Alleged Church)". This
21 code is part of the Tax Protestor Program described in the
22 Internal Revenue Manual, and allows the returns, which are
23 treated as "priority cases," to be "controlled" through the
24 IRS' nationwide computer system. A special questionnaire for
25 Scientology cases is included for use by IRS examiners. An
26 internal memo, designed to assist IRS examiners in handling
27 these cases, lists several organizations which have never even
28 existed, and claims that these are names used by the "Church of

1 Scientology."

2 59. Defendant Melvin Blough attempted to utilize the
3 Church audit procedures of 26 U.S.C. § 7611 to identify
4 thousands of parishioners of the Church of Scientology Flag
5 Service Organization ("CSFSO") for the purpose of selecting
6 their personal tax returns for audit. Blough testified that he
7 wished to obtain records from CSFSO which would: (a) identify all
8 of its parishioners for a three year period; (b) identify each
9 of the courses delivered by CSFSO and describe them; (c)
10 identify the courses taken by the parishioners; and (d) pull the
11 tax returns of a number of these individuals. Blough stated
12 that CSFSO provides courses to an estimated 8,000 parishioners a
13 year, and further claimed that the IRS would use as many agents
14 as needed to compile this information. In fact, nearly 100
15 parishioners of CSFSO have received audit notices regarding
16 their contributions to the Church since Blough announced his
17 plans. Blough also utilized the Cult Awareness Network ("CAN")
18 as a means to improperly gather information regarding the
19 Church. CAN is a modern day hate group, whose tactics include
20 kidnapping, brainwashing and beating of individuals found to be
21 guilty of holding "unacceptable" religious convictions.
22 Despite these activities, CAN was granted tax exempt status by
23 the IRS, and was used by Blough as an information gathering
24 arm, for the purpose of procuring information on individual
25 Scientologists and their businesses.

26 60. Assaults on churches of Scientology by or as a result
27 of actions by IRS personnel have not been limited to the
28 borders of the United States. William Connett is now stationed

1 as the IRS' foreign representative in France where he has a
2 wide range of influence in European countries. Since his
3 posting there have been raids on churches of Scientology by
4 police and taxing authorities and unwarranted arrests of
5 individual Scientologists in France, Italy and Spain. When two
6 staff members of the Church of Scientology in Brussels were
7 initially denied visas to travel to the United States, this was
8 traced directly back to false information provided to the
9 consulate officials by Connett.

10 61. In an effort to harass, discredit and smear
11 plaintiff, to intimidate IRS employees who might otherwise
12 treat plaintiff fairly or disclose IRS misconduct, and to
13 evade FOIA disclosure obligations, defendant Keith Alan Kuhn has
14 begun to proliferate unsubstantiated and patently false
15 allegations against Scientology and Scientologists, which have
16 been used as a pretext to manufacture security risks to IRS
17 employees. In or about May 1990, Kuhn sent out a memorandum to
18 each of the Regional Inspectors around the country, directing
19 them to contact specifically named EO employees who were
20 working on Scientology cases. Based on scurrilous and
21 unsubstantiated charges, Kuhn directed that these EO employees
22 be told that there was a potential for harassment against them
23 from the Church, thus creating a climate where plaintiff and
24 other Scientology churches could not possibly receive unbiased
25 treatment from any EO agent throughout the country. Kuhn's
26 allegations themselves are entirely without merit. The IRS
27 filed a declaration by Kuhn which contained these charges in a
28 FOIA case brought by a Scientology Church. The District Court

1 judge in that case ordered the declaration stricken from the
2 record, describing it as "scurrilous" and "unfounded".

3 62. After the collapse of the criminal investigation and
4 after denying section 501(c)(3) exemption to plaintiff, RTC
5 and CST, the nationwide examination of exempt and nonexempt
6 Scientology Churches and entities which had been planned early
7 in 1986 was resuscitated by defendants and the IRS. A
8 three-day meeting on Scientology was convened at the IRS
9 National Office on October 19, 20 and 21, 1988 to coordinate
10 nationwide actions against various Scientology Churches,
11 including plaintiff.

12 63. That three-day meeting was ordered by defendant
13 Brauer, organized and convened by defendant Owens, and chaired
14 by defendant Friedlander. Also in attendance were:

- 15 a. EO Operations employee Tom Miller, who had
- 16 drafted the 1986 proposal to re-examine the exempt
- 17 Scientology Churches;
- 18 b. Roderick Darling;
- 19 c. LA EO Branch Chief Mel Joseph, along with
- 20 defendants Young and Corsi;
- 21 d. Defendant Blough;
- 22 e. IRS agents from at least the Brooklyn,
- 23 Baltimore, and Los Angeles Regional
- 24 offices; and
- 25 f. IRS National Office representatives.

26 64. Various strategic plans for a continued IRS campaign
27 directed at Scientology were discussed at the three-day meeting
28 in October 1988. Defendant Young prepared and delivered a

1 briefing at that conference in which he proposed that and
2 explained how the IRS could use the assessment of tax
3 liabilities under the Federal Insurance Contribution Act
4 ("FICA") and the Federal Unemployment Tax Act ("FUTA") to
5 exploit the non-exempt status of various Scientology Churches,
6 completely disregarding the fact that the Churches in question,
7 including plaintiff, had filed waivers seeking exemption
8 from those employment taxes which had been accepted by the IRS.

9 65. At that same three-day meeting, format material for
10 a nationwide campaign of examinations of exempt and non-exempt
11 Scientology Churches was distributed and discussed, and the
12 decision was made during that meeting to commence tax inquiries
13 of plaintiff, Church of Scientology Western United States
14 ("CSWUS"), Church of Scientology Flag Service Organization
15 ("CSFSO"), Founding Church of Scientology of Washington, D.C.
16 ("FCDC") and Church of Scientology of Boston ("Boston Church").
17 Those inquiries in fact did commence, upon the issuance of
18 notices of tax inquiry to those Churches which were circulated
19 during that three-day meeting.

20 66. Upon receipt of the virtually identical notices of
21 tax inquiry, plaintiff, CSWUS, CSFSO, FCDC, and the Boston
22 Church responded by pointing out inaccuracies and deficiencies
23 in the standardized, coordinated notices and, despite those
24 infirmities, responded to the questions posed by those notices.
25 In each instance, however, the IRS issued a notice of church
26 examination under the Church Audit Procedures Act, 26 U.S.C.
27 § 7611. In four of those, summonses were issued and summons
28 enforcement proceedings commenced in the appropriate district

1 court. In the CSFSO case, the matter is still pending in the
2 United States District Court for Middle District of Florida;
3 this Court, the Honorable Harry L. Hupp, presiding, quashed
4 the majority of both the summonses issued to CSWUS and
5 plaintiff; the United States District Court for the District of
6 Massachusetts quashed the summons to the Boston Church
7 outright. The FCDC examination was conducted, and despite
8 nearly two years of intrusive inquiry, the IRS declined to
9 cancel FCDC's exemption.

10 67. The coordinated examinations of those five distinct
11 churches were coupled with concurrently timed IRS activities
12 directed against other Scientology Churches and individual
13 Scientologists. These various coordinated activities against
14 Scientology are the responsibility of what defendant Owens has
15 described as "thousands of [IRS] employees in key districts and
16 district offices around the country and the National Office."
17 Those coordinated actions have also been the subject of later
18 meetings on Scientology at the IRS National Office, involving
19 as many as 40 attendees from different IRS regions and
20 divisions, in pursuit of what the SAR termed the "final halt
21 to" and "ultimate disintegration of" Scientology.

22 68. Such coordination of IRS offenses against Scientology
23 Churches and Scientologists generally also reaches down to the
24 LA District level. Since approximately July 1989, monthly
25 meetings have been held at the Pasadena, California courthouse
26 that houses the United States Court of Appeals for the Ninth
27 Circuit, to coordinate the actions of the Los Angeles EO
28 (represented at such meetings by defendant Young), Examinations

1 Division, and upon information and belief, LA CID. These
2 monthly meetings are arranged and coordinated by the Los
3 Angeles District Counsel's office, and are attended by a number
4 of District Counsel staff and, in fact, are chaired by
5 defendant Jeglikowski, who supervises the meetings and the
6 matters coordinated therein, against plaintiff and other
7 Scientology Churches in disregard of the Constitution, the
8 Internal Revenue Code, and policies set forth in the Internal
9 Revenue Code. A regular topic of these meetings has been civil
10 lawsuits involving plaintiff and other Scientology churches.
11 The cases specifically include the civil suit filed by the
12 Aznarans, and a case involving a former attorney for the
13 Church. Defendant Jeglikowski has met with an attorney for one
14 of the civil litigants, for purposes of coordinating actions
15 between the IRS and the civil litigants against plaintiff.

16 69. The monthly meetings in Pasadena, like the meetings
17 held from time to time at the National Office, are the vehicles
18 by which defendants have singled out a religion and its
19 churches and parishioners for singular and unfair treatment
20 based upon their religious affiliation and set about to
21 administer the Internal Revenue Code in a manner designed
22 specifically to affect such co-religionists in an arbitrary and
23 capricious manner, and to cause the harm hereinafter averred.

24 70. Plaintiff has made repeated efforts to resolve any
25 legitimate concerns on the part of the IRS. As shown above,
26 the Church has provided voluminous information to the IRS over
27 the years to allay any concerns and to respond to any
28 legitimate questions. These efforts on the part of the Church

1 have been either been perverted (as in the use of this
2 information for purposes of a CID investigation), or rebuffed.
3 Within the past few months, plaintiff once again attempted to
4 resolve various issues with EP/EO representatives, including
5 defendant Owens. However, the IRS continuously demanded the
6 production of voluminous quantities of documents as a
7 precondition for further talks. Most of the information
8 requested had previously been provided to the IRS over the past
9 years, yet the EP/EO representatives demanded it once again.
10 When informed that the production of documents being requested
11 on a voluntary basis was so extensive as to require months if
12 not years to review, one representative of EP/EO remarked that
13 this did not concern him, as he had twelve years left in the
14 IRS before retirement.

15 71. The defendants, and each of them, by their conduct
16 alleged herein, have singled out plaintiff for invidious
17 discrimination in the application of the laws of the United
18 States on the basis of plaintiff's religious affiliation, in
19 violation of the Equal Protection component of the Due Process
20 Clause of the Fifth Amendment to the United States Constitution.

21 72. Plaintiff has been damaged and continues to be
22 damaged thereby in an amount to be proven at trial. That
23 amount is not presently capable of precise calculation but
24 is believed to be in excess of \$20,792,850 which represents
25 direct expenditures by plaintiff. Plaintiff has also suffered
26 consequential and resulting damages in an amount to be proven
27 at trial, but which is in an amount in excess of \$100 million.

28 73. The conduct alleged herein is ongoing and, unless

1 enjoined by this Court through an order forbidding defendants
2 from any and all further participation in any matter involving
3 the IRS and plaintiff or any other Scientology Churches or any
4 other Scientology entities or parishioners, the harm alleged
5 herein will continue and the Constitutional violations will
6 persist to plaintiff's detriment.

7 FOURTH CLAIM FOR RELIEF

8 (For Fifth Amendment Violations by All Defendants)

9 74. The Church repeats and realleges each and every
10 averment set forth in paragraphs 1 through 73, inclusive.

11 75. Defendants have, in the course of conduct hereinabove
12 averred, acted in violation of the Constitution, the laws of
13 the United States, and the policies, and procedures, and
14 practices of the IRS created by the IRS for the benefit of
15 taxpayers. Such conduct is a denial of plaintiff's due process
16 rights as set forth in the Fifth Amendment to the United States
17 Constitution.

18 76. Plaintiff has been damaged and continues to be
19 damaged thereby in an amount to be proven at trial. That
20 amount is not presently capable of precise calculation but
21 is believed to be in excess of \$20,792,850 which represents
22 direct expenditures by plaintiff. Plaintiff has also suffered
23 consequential and resulting damages in an amount to be proven
24 at trial, but which is in an amount in excess of \$100 million.

25 77. The conduct alleged herein is ongoing and, unless
26 enjoined by this Court through an order forbidding defendants
27 from any and all further participation in any matter involving
28 the IRS and plaintiff or any other Scientology churches or any

1 other Scientology entities or parishioners, the harm alleged
2 herein will continue and the Constitutional violations will
3 persist to plaintiff's detriment.

4 WHEREFORE, plaintiff Church of Scientology International
5 prays that:

6 78. Defendants, and each of them, be preliminarily and
7 permanently enjoined from any and all further participation in
8 and responsibility for any matter involving the IRS and
9 plaintiff or any other Scientology Church or entity, or any
10 Scientology parishioner;

11 79. Plaintiff be awarded damages according to proof,
12 which are believed to be in excess of \$20,792,850 in
13 direct expenditures by plaintiff, and consequential and
14 resulting damages in an amount to be proven at trial, but which
15 is in an amount in excess of \$100 million, and

16 80. The Court award and order such other and further
17 relief that it deems appropriate under these circumstances.

18 Dated: August 12, 1991

Respectfully submitted,

19 QUINN, KULLY AND MORROW

20 COOLEY, MANION, MOORE &
JONES, P.C.

21 BERRY & CAHALAN

22 BOWLES & MOXON

23 WILLIAM T. DRESCHER

24
25 By: 

26 William T. Drescher

27 Attorneys for Plaintiff
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6 Attorneys for Plaintiff and Cross-Defendant
7 Church of Scientology of California

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 CHURCH OF SCIENTOLOGY OF) CASE NO. C 420 153
11 CALIFORNIA, a California)
12 Corporation,)
13 Plaintiff,)
14 v.)
15 GERALD ARMSTRONG, et al.,)
16 Defendants.)

17) DATE: February 12, 1986
18) TIME: 9:00 a.m.
19) DEPT: 57
20)
21)
22)
23)
24)
25)
26)
27)
28)

PLEASE TAKE NOTICE that on February 12, 1986, at 9:00 a.m. or as soon thereafter as counsel may be heard, in Department 57 of the above-entitled court, located at 111 North Hill Street, Los Angeles, California, Cross-Defendant Church of Scientology of California will move for a stay of the Court's order of July 2, 1985 as set forth herein.

Also, set forth herein is cross-defendant's further response to the Court's order of July 2, 1985.

This Motion is brought pursuant to Code of Civil Procedure Section 128(8), Evidence Code Section 320, the attached Memorandum of Points and Authorities, the attached Declaration of John G. Peterson, the pleadings on file in the above-named case, and all such matters oral and documentary as

1 may be brought to the attention of the Court at or prior to
2 the hearing on this Motion.

3 Dated: January 22, 1986 . Respectfully submitted,

4 PETERSON AND BRYNAN

5

6

By:


JOHN G. PETERSON, ESQ.

7

8

Attorneys for Cross-Defendant
Church of Scientology of
California

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MEMORANDUM OF POINTS AND AUTHORITIES

I

PRELIMINARY STATEMENT

The Church of Scientology of California [hereinafter the "Church"] is now faced with either "possible contempt or other sanctions" as threatened by this Court in its order of July 31, 1985, or with submission to the destruction of its First Amendment rights and the near certainty of false claims concerning the disclosure of information from its auditing files should Gerald Armstrong [hereinafter "Armstrong"] ever receive them through discovery.

On July 2, 1985, this Court issued an order requiring the Church to produce, for an in camera inspection, the auditing or preclear files relating to Gerald Armstrong. The Court also ordered the Church to produce or furnish for inspection "all matter which reflects any statement, or summary of statements" made by Armstrong contained in those auditing files.

After several stays of the Order were entered and vacated, this Court on December 9, 1985, ordered that compliance be made to its order of July 2, 1985, as modified, within twenty days -- by January 3, 1985. A stipulation between the parties continuing compliance until January 22, 1986, was subsequently filed and granted.

In Armstrong's Third Amended Cross-Complaint, he alleges in the fraud cause of action that auditing disclosures were represented to him to be completely confidential and that this was false (page 17 section e and

1 page 18 paragraph 15) and is also alleged under the Breach
2 of Contract cause of action (page 28, paragraph 39 and page
3 30, paragraph 42). In Armstrong's second cause of action
4 for Intentional Infliction of Emotional Distress at page 23,
5 paragraphs 23 and 24, he alleges that the Church "disclosed
6 to third persons the confidential information disclosed by
7 Cross-complainant during auditing." Armstrong supports his
8 need to discover his pre-clear folders based on these claims
9 in his complaint; however, he has been unable to show any
10 facts or evidence to support these claims.

11 At no point, either in discovery or in the underlying
12 trial, has Armstrong been willing or able to state exactly
13 what information was supposedly disseminated from the auditing
14 files and to whom.

15 "Q Do you contend that at any time since
16 December 12, 1981, any confidential material
17 contained in an auditing or pre-clear or any
other kind of confidential file has been
disseminated concerning you?

18 "A Excuse me?

19 "Q Do you contend that any confidential
20 information contained in a pre-clear,
21 auditing, or other confidential-type
processing file has been disseminated
concerning you?

22 "A I don't know."

23 August 18, 1982 Deposition, pp. 230-231. Instead, he has
24 made generalized statements. He makes speculative
25 unsupported claims to "prove" that it happened to others
26 and so must have happened to him. He now claims that he
27 must first learn what information is in these auditing
28 files before he can determine what information was

1 disseminated. This is circular reasoning and surely
2 improper pleading. A claim must be made on a good faith
3 belief and some facts to support the belief in that claim.
4 To plead a cause of action without any basis in an attempt
5 to justify a fishing expedition and an unconstitutional
6 intrusion into internal ecclesiastical folders is improper.
7 It has always been the internal law of the Church that a
8 preclear would never see his or her pc folder.

9 Armstrong knew it, understood it and agreed to abide by
10 this internal ecclesiastical law. This civil court cannot
11 violate this constitutionally protected area of the
12 religion. Serbian Eastern Orthodox v. Milivojeovich,
13 (1976) 426 U.S. 696 (the Court held that civil courts may
14 not inquire at all into "matters of discipline, faith,
15 internal organization, or ecclesiastical rule, custom, or
16 law."; In Watson v. Jones, 13 Wall (80 U.S.) 666 (1872)
17 the Court held that:

18 "The judicial eye cannot penetrate the
19 veil of the church for the forbidden
20 purpose of vindicating the alleged wrongs
21 of excised members; when they became
22 members they did so upon the conditions of
23 continuing or not as they and their
24 churches might determine, and they thereby
25 submit to the ecclesiastical power and
26 cannot now invoke the supervisory power of
27 the civil tribunals."

24 If Armstrong is allowed the ability to review the auditing
25 files, and to determine what information is contained in
26 them, he will plant forged documents, manufacture false
27 evidence and suborn perjured testimony, and then falsely
28 claim that this preclear information was disseminated by

1 the Church.

2 The Church is gravely concerned about this likelihood for
3 the following reasons:

4 1. The auditing files almost certainly contain
5 information relating to the great majority of Armstrong's
6 life, thereby allowing him to choose almost any traumatic
7 event in his life , manufacture false evidence and claim
8 that the Church disseminated that information;

9 2. Armstrong has admitted, under oath and after leaving
10 the Church, that he knew of no dissemination of information
11 from his preclear files;

12 3. Armstrong has admitted, in a videotaped interview,
13 to creating forged documents for placement in Church files
14 for the sole purpose of giving the false appearance of
15 unethical or illegal actions committed by the Church; and

16 4. Armstrong has admitted, in a videotaped interview,
17 his intention to commit perjury, as well as advising others
18 that proof is not required to make allegations.

19 For these reasons, as detailed more fully below, the
20 Church requests that Armstrong be required to execute an
21 itemized, verified offer of proof regarding the information he
22 alleges has been disseminated from auditing files before
23 the court proceeds further. The Church is confident that
24 Armstrong cannot show good cause why he needs the preclear
25 folders. Also, a summary judgment motion to be filed by
26 January 24, 1986, will make them irrelevant.

27 ///

28 ///

1 A. Information Demonstrating The Likelihood That Armstrong
2 Will Falsely Claim Dissemination Of Auditing Files

3 In late 1984, Armstrong met and surreptitiously conspired
4 with Church of Scientology staff members, known as the
5 "Loyalists", whom he believed to be opponents of current
6 Church management. In November, 1984, several police
7 sanctioned videotapes were made of such meetings between
8 Armstrong and these persons and, in April, 1985, these
9 videotapes and portions of other written materials
10 furnished by Armstrong to the Loyalists were introduced as
11 exhibits in the trial of Julie Christofferson
12 Titchbourne v. Church of Scientology, Mission of Davis, et
13 al., Circuit Court of the County of Multnomah, Oregon,
14 No. A7704-05184.

15 The videotapes show that during his meetings with the
16 Loyalists, Armstrong made a number of admissions reflecting
17 directly on his criminal state of mind and the reliability
18 of his testimony. For example:

19 1. He admitted his intention to create forged documents,
20 and indicated that he had done so previously:

21 MR. ARMSTRONG: Well, I got a view, of
22 course, from you, of course, that some-
23 one at least considered that I HELP
24 [International Hubbard Ecclesiastical
25 League of Pastors] was, you know, their
26 Achilles heel, as it were. (LAUGHS) So
27 we thought, "Shit, shouldn't I get some
28 I HELP materials?" So hence I asked.
Now issues, [Church bulletins] I wanted
to know, number one, how they're run
off, what the type face is like. Are
these like this? You know -

MR. JOEY: These are the real McCoys.

1 MR. ARMSTRONG: You see, because I think
2 that during a part of this, we can
3 simply create these. You know, I can
4 create documents with relative ease,
5 (LAUGHS) you know; I did it for a
6 living. (LAUGHS) Transcript of
7 November 7, 1984, p. 4, attached hereto
8 as Exhibit "A" to Declaration of John G.
9 Peterson. (emphasis supplied)

10 2. He stated his intention to "bring them [Church
11 management] to their knees." Transcript of November 7, 1984,
12 p. 9, attached hereto as Exhibit "A" to Declaration of John G.
13 Peterson.

14 3. He admitted that he had been involved in working
15 against the Church even prior to the time that he officially
16 left in December, 1981:

17 MR. JOEY: What's your -

18 MR. ARMSTRONG: My purpose?

19 MR. JOEY: Yeah. For the Church.

20 MR. ARMSTRONG: Well, my purpose
21 initially is global settlement. I want
22 that. I've done this shit now for
23 going on three years, and even longer
24 before that when I was inside . . .
25 Transcript of November 7, 1984, p. 13,
26 attached hereto as Exhibit "A" to
27 Declaration of John G. Peterson.
28 (emphasis supplied)

Armstrong's own words above clearly show his intention
and how he used the Court to satisfy his plans. He was
plotting to bring church management to its knees so he
could extort a settlement of his \$81.4 million personal
injury case. The videotape shows that even while he was
still in the Church he was plotting his personal injury
case and he lied to this Court when he testified that he
stole documents to protect himself. He stole documents

1 only to extort money from the Church and use in his
2 personal injury case. The candid and recorded words out of
3 Armstrong's own mouth show conclusively the lengths he will
4 go in order to make and forward his personal injury
5 case. Armstrong has no evidence of any dissemination from
6 the pc folders and he is seeking access to them only to
7 manufacture and plant false evidence to bolster his
8 deficient claim.

9 4. He furnished a variety of "literary" materials,
10 apparently for potential publication, to a member of the
11 Loyalists, including the disgusting "Operation Long Prong"
12 attached as Exhibit "E" to the Declaration of John G.
13 Peterson. The extremes of illegality to which Armstrong was
14 prepared to go in order to carry out this conspiracy is
15 demonstrated by a blackmail and extortion scheme called
16 "Long Prong" which Armstrong attempted to perpetrate. This
17 was a plan to set up a senior Scientologist with a woman in
18 order to upset his marriage, degrade his reputation within
19 the Church and blackmail his cooperation in Armstrong's
20 scheme to subvert Church of Scientology management. (See
21 also p. 21 of Exhibit "A" for discussion of furnishing such
22 "art work" for publication.)

23 5. While he claimed in the videotape that his goal
24 was "global settlement," Armstrong admitted that it was
25 still, if settlement failed, his intention to continue with
26 his \$81.4 million suit because "that's going to pay off
27 sooner or later. "Exhibit "A" at p. 23.

28 6. As an example of how Armstrong would not hesitate

1 to commit perjury to support his case or a claim for
2 damages, in testimony in Oregon he admitted that, despite
3 his prior testimony in the underlying case herein that
4 L. Ron Hubbard controlled the Church; in the subsequent
5 Christofferson trial, he stated under oath that he did
6 not know who was actually in control of the Church:

7 MR. ARMSTRONG: Well, who is ASI? Who
8 are these people? Give me an org
9 board. Tell me who the opposition is,
10 who knows what. Where does Marc Yager
11 fit in all of this, you know, what is
12 the actual line of control? Who is in
13 charge? 'Cause someone is. . . .
14 Transcript of November 9, 1984, p. 6,
15 attached hereto as Exhibit "B" to the
16 Declaration of John G. Peterson.
17 (emphasis supplied)

18 7. He admitted that he would perjure himself, and
19 attempted to suborn the perjury of "Mr. Joey":

20 MR. ARMSTRONG: By the way, I'll never
21 admit that anything comes from Michael
22 [Flynn], including any complaints which
23 I may have drafted. (Transcript of
24 November 9, 1984, p. 7, attached hereto
25 as Exhibit "B" to Declaration of John G.
26 Peterson.

27 * * *

28 MR. ARMSTRONG: Okay. What are our
conversations, should it come down to it.

MR. JOEY: What do you mean?

MR. ARMSTRONG: What do we talk about?
You're deposed. You walk out there and
there's a PI, he hands you a paper
saying you're deposed, Jack. And not
only that, you're out of the organiza-
tion. And, and what do you say in
deposition? Well, Armstrong and I
talked about this and he had a whole
bunch of ideas about how to infiltrate
the communication lines and spread
turmoil and disaster, you know. What
are we doing here? That's my question,

1 before I'll tell you my ideas on
2 documents.

3

4 MR. ARMSTRONG: Okay. So as far as the
5 doc - let me just say . . . ah, this is
6 why we get together. We get together
7 because I have a goal of global settle-
8 ment. You have felt that the turmoil
9 and abuses and, so on have gone on too
10 long - hence we get together and discuss
11 things. We have not discussed anything
12 about a destruction of the tech, or that
13 Scientology is bad, or anything like
14 that. Are we agreed? (Transcript of
15 November 9, 1984, pp. 9-10, attached
16 hereto as Exhibit "B" to Declaration of
17 John G. Peterson.)

18 8. He proposed the creation of phony documents which
19 could be spread throughout the Church through the use of
20 internal communications lines:

21 MR. ARMSTRONG: People can draft the
22 stuff. Um, it just seems like - the
23 guts of - you know, there's three
24 things, right - there's personnel and
25 comm lines and money. That's about
26 it. An organization's comm lines are
27 of various kinds, and I think that
28 you can use the fact, you know,
realize what their comm lines are and
plug into them. That's all I was
trying to convey. . . . Transcript
of November 9, 1984, p. 7, attached
hereto as Exhibit "B" to Declaration
of John G. Peterson

* * *

22 MR. ARMSTRONG: . . . So it seems to me
23 that the use of the communication lines -
24 I don't know maybe you guys are using
25 them, but it seems to me that you don't
26 have a way of printing anything to get
27 an issue [Church document] on the lines,
28 to use for anything, right? I'm saying
that I can do it. I'm saying that I
can type those goddamn things and
duplicate them and make them look
exactly the same. . . . (Transcript of
November 9, 1984, p. 11, attached hereto

as Exhibit "B" to Declaration of John G. Peterson.) (emphasis supplied)

Armstrong's statements clearly indicate his willingness to plant documents in order to create false pictures and destroy the Church. If Armstrong had access to the preclear folders he could forge "church" documents showing improper use of the preclear folders and plant these documents in the Church or have them anonymously mailed to his attorneys. If allowed access to these materials, he is obviously more than capable of anonymously sending them to the Los Angeles "Times" or to friends, solely to claim "dissemination" by the Church to support a non-existent claim and to boost his already outrageous damages demands. The Court must not forget that it is Armstrong and his counsel, Michael Flynn, who already appear to have violated this Court's sealing orders as set forth in the pending Motion to Initiate an Investigation. Their lack of respect for the privacy of others, as revealed in the Motion for Investigation, leads to the inescapable conclusion that they will not hesitate now to violate any sealing orders in exchange for the chance to falsely create "damages" for Armstrong.

This Court must also remember that Michael Flynn has also evidenced a propensity for the public dissemination of auditing information pertaining to his clients. On June 25, 1983, during a public speech he gave to a group calling itself "Phoenix" in Los Angeles, Flynn divulged auditing information relating to several of his clients -- Marjorie Hansen and Janet Troy. Flynn had obtained this information

1 from another client of Flynn's who had wrongfully obtained
2 the pc folders. (See Transcript of speech, attached to
3 Declaration of John G. Peterson as Exhibit "F".) Where he
4 thinks it to his benefit, as he might well here, Flynn has
5 already proven himself capable of widely disseminating such
6 information to the detriment of his client.

7 Having the preclear folders held either in camera
8 or under seal is no protection at all. Were the Church to
9 produce the preclear files in chambers or under seal, the
10 Court were to deny Armstrong access to the folders,
11 counter-claimant could take a Writ and ask that the
12 preclear folders be made an exhibit and part of the record.
13 Sealed exhibits are not safe in Los Angeles Superior Court
14 as proved in the underlying case when IRS agents wrongfully
15 obtained access to and copied sealed materials. This court
16 has already expressed its view that documents that come
17 before this court become exhibits and open to the public.
18 The history of this case proves that seals and in
19 camera submissions are meaningless.

20 The Court of Appeal has held that attorney-client
21 privileged documents should not be viewed in camera.
22 The Church strongly believes that priest-penitent documents
23 hold an equal if not greater degree of privilege. Any
24 submission either under seal or in camera is not only a
25 violation of the spirit of the law of privilege but an
26 unconstitutional violation of the Church's rights.

27 The above examples, and others included in the attached
28 Declaration of John G. Peterson, conclusively demonstrate that

1 Armstrong is willing to stoop to any lengths, including the
2 commission of such illegal acts as conspiracy, perjury,
3 subornation of perjury, and forgery to achieve the destruction
4 or overthrow of the Church and to pursue his personal
5 injury case. He appears to be unstable, as demonstrated by
6 the exhibits to Mr. Peterson's declaration, and this type
7 of instability lends great credence to the Church's belief
8 that he will use materials from the auditing files to
9 falsely claim information has been disseminated. Armstrong
10 knows that there is no factual basis for his claim that the
11 Church has disseminated preclear information, and the
12 request for the auditing files has been no more than a
13 desperate attempt gain information to allow him to
14 manufacture and plant phony documents to support his
15 allegations.

16 II.

17 BECAUSE A DISPOSITIVE MOTION IS SOON TO BE FILED
18 PENDING, A STAY SHOULD BE GRANTED UNTIL THESE ARE HEARD

19 The Church has raised serious objections to this
20 Court's Order of July 2, 1985. Nonetheless, this Court has
21 chosen to ignore those objections, and to order the
22 production of sacred and ecclesiastical materials. The
23 circumstances now existing demand an equitable solution.
24 This Court should stay its Order pending resolution of the
25 Motion for Partial Summary Adjudication of Issues which
26 the Church will be filing on January 24, 1985. The granting
27 of that Motion will dismiss those portions of the
28 cross-complaint relating to dissemination of auditing

1 information and will moot that section of the order of July
2 2, 1985 ordering production of the auditing files.

3 This Court must also stay its Order of July 2, 1985 pending
4 resolution of the Motion to Initiate an Investigation as
5 the results of that investigation will clearly point out
6 the danger of wrongful access to confidential materials
7 surrendered to the Court or turned over to Armstrong and
8 his counsel. The results of that investigation will be
9 conclusive that these preclear folders must remain with the
10 Church to protect everyones' interests of privacy and
11 confidentiality, even Armstrong's.

12 III

13 THIS COURT HAS THE AUTHORITY TO ENSURE JUSTICE RESULTS
14 BY SETTING THE ORDER IN WHICH EVIDENCE IS INTRODUCED

15 Code of Civil Procedure § 128(a)(8) authorizes this Court
16 to take the steps necessary to ensure that justice results
17 from the current situation:

18 "(a) Every court shall have the
19 power to do all of the following:

20 . . .

21 (8) To amend and control its process and
22 orders so as to make them conform to law
23 and justice."

24 Moreover, Evidence Code § 320 specifically authorizes
25 this Court to establish the order in which proof is presented:

26 "Except as otherwise provided by
27 law, the court in its discretion shall
28 regulate the order of proof."

Together, these code sections clearly authorize this
Court to amend its order of July 2, 1985 by requiring that
Armstrong furnish an itemized, verified offer of proof.

IV

CONCLUSION

This Court has the inherent power to ensure that justice results from its rulings. It should require Armstrong to furnish an itemized, verified offer of proof as to the specific information he alleges has been disclosed from the auditing files relating to him. It should also stay execution of its Order of July 2, 1985 until the Motion for Partial Summary Adjudication of Issues has been resolved, and until the pending Motion for Investigation has been resolved and the investigation completed. To do otherwise, in view of Armstrong's admitted intention to commit perjury, to forge and plant documents in files, and his extreme instability, would create injustice and inequity.

Dated: January 22, 1986

Respectfully submitted,

PETERSON AND BRYNAN

By:


JOHN G. PETERSON, ESQ.

Attorneys for Cross-Defendant
Church of Scientology of
California

EXHIBIT C

276
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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and
RICHARD N. AZNARAN,

Plaintiffs,

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

Defendants.

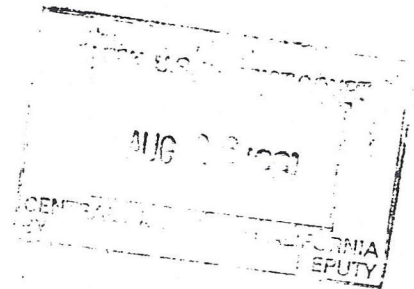
AND RELATED COUNTERCLAIMS.

) CASE No. CV 88-1786 JMI(Ex)
)
) SUPPLEMENTAL MEMORANDUM IN SUPPORT
) OF DEFENDANTS' MOTION TO DISMISS
) COMPLAINT WITH PREJUDICE;
) DECLARATIONS OF SAM BROWN, THORN
) SMITH, EDWARD AUSTIN, LYNN R.
) FARNY AND LAURIE J. BARTILSON
)
) DATE: To be determined
) TIME: To be determined
) COURTROOM: Hon. James M. Ideman

RECEIVED

AUG 29 1991

HUE LAW OFFICES



When the Court entered its Order of July 22, 1991,
1 vacating the appearance of Joseph A. Yanny ("Yanny") as
2 counsel for plaintiffs because that appearance was
3 "inappropriate and highly prejudicial to Defendants," and
4 reinstating Ford Greene ("Greene") as plaintiffs' counsel, the
5 Court undoubtedly intended that Yanny's participation in this
6 case would cease. Defendants predicted that mere
7 disqualification of Yanny would not cure the deep-rooted
8 problem, and accordingly filed their Motion to Dismiss the
9 Complaint. It has now come to defendants' attention that
10 Yanny's involvement in this case has in fact survived
11 that Order, and that Yanny has returned to his covert
12 representation of the Aznarans, similar to the arrangement that
13 existed prior to his direct entry into the case. As a result
14 of this information, defendants are forced to supplement their
15 motion to dismiss the complaint with prejudice, to bring to the
16 Court's attention Yanny's continuing participation in this
17 matter as additional grounds warranting dismissal.

18 There are two manifestations of Yanny's ongoing aid
19 to the Aznarans that are known to defendants. At this time,
20 they can only speculate as to what other involvement exists.
21 The assistance furnished by Yanny has taken the visible form of
22 supplying Greene with help from two of Yanny's present or
23 former employees.

24 The first of these employees, John Koresko, was formerly
25 the office manager, and later a paralegal for Yanny's law firm,
26 during the pendency of this litigation, Yanny's own litigation
27 with defendants herein and during the time that Yanny was
28

1 counsel to these defendants. (Ex. A, Deposition of John
2 Koresko, at 65-67.) Yet, as more fully detailed in the
3 declarations of Edward Austin, Thorn Smith and Lynn R. Farny,
4 subsequent to Yanny's disqualification from representing the
5 Aznarans, Koresko was seen at Greene's office on August 3 and
6 4. On August 3, Koresko arrived at Greene's office at 5:14
7 p.m. and was not observed leaving.^{1/}

8 The extensive involvement of Yanny's other employee
9 in this case following Yanny's disqualification also
10 recently came to the attention of defendants. On August
11 19, 1991, by order of the Court extending their time to
12 respond, plaintiffs had oppositions to six motions due. (Order
13 of August 9, 1991.) On that date, Greene filed three papers
14 with the Court, oppositions to two summary judgment motions and
15 a 53-page "Appendix." During the time period in which those
16 papers were being prepared, an individual named Gerald
17 Armstrong ("Armstrong") was observed at Greene's office
18 each day from August 15 through 19 for most of each of those
19 days. (Ex. D, Declaration of Sam Brown; Ex. E,
20 Declaration of Lynn R. Farny.) In addition, when Laurie
21 Bartilson, counsel for defendant Church of Scientology
22 International, called Greene's office on August 19 to arrange

23 1. While plaintiffs may try to pass off Koresko's presence as
24 a simple matter of returning the case files, this is belied by
25 the sworn testimony of their varying counsel. Yanny claimed on
26 July 31, 1991, that he had never received the file from Greene.
27 (Ex. B) On August 1, 1991, Greene swore that he had sent the
28 file to Los Angeles by Federal Express on June 27, 1991. (Ex.
C, Declaration of Ford Greene, para. 11.) He claimed that he
then received the case file from his new co-counsel, Mr.
Elstead - not Yanny - on July 31, 1991, three days before
Koresko's appearance at Greene's offices.

1 to have a courier pick up the oppositions, the telephone was
2 answered by a person who identified himself as Gerald Armstrong
3 ("Armstrong"). (Ex. F, Declaration of Laurie J. Bartilson,
4 para. 3.) When queried as to his presence there, Armstrong
5 stated that he was "helping out." (Id.) Additional papers
6 were late-filed with the Court by Greene on August 23, and not
7 surprisingly, Armstrong's presence at Greene's office continued
8 after the August 19 filings for several more days. (Ex. D,
9 Declaration of Sam Brown, para. 3.)

10 Armstrong has recently been identified as a paralegal
11 hired by Yanny to work with him on this case. Yanny
12 represented in argument to Los Angeles Superior Court that he
13 had "hired Armstrong as a paralegal to help [him] on the
14 Aznaran case." (Ex. G, Reporter's Transcript of August 6,
15 1991, at 25.) Armstrong confirmed this characterization, as did
16 Yanny in a declaration. (Ex. B, Declaration of Joseph A.
17 Yanny, July 31, 1991, para. 4; Ex. H, Declaration of Gerald
18 Armstrong, July 19, 1991, para. 4.) As Armstrong is Yanny's
19 paralegal on this case, his new affiliation as an assistant to
20 Ford Greene is truly outrageous. Not only has Yanny been
21 disqualified point blank by the Court from representing the
22 Aznarans, he has also been forbidden from directly or
23 indirectly acting as counsel against defendants on behalf of
24 the Aznarans or Gerald Armstrong by preliminary injunction
25 entered on August 6 at the hearing in which the statement was
26 proffered that Armstrong was his paralegal on this case.
27 Religious Technology Center, et al. v. Yanny, et al.,
28 Case No. BC 033035. (Ex. G, Transcript of August 6, 1991, at

1 3-4.)

2 This Court disqualified attorney Barry Van Sickle from
3 representing plaintiffs as being "an extension of Joseph
4 Yanny's continuing involvement in the instant action." (slip.
5 op. September 6, 1988). Here again, Yanny's involvement in
6 this case continues, this time through a different "extension"
7 -- the improper activities of Yanny's paralegal, Gerald
8 Armstrong, whose actions are just as improper as they would be
9 if done by a lawyer. In re Complex Asbestos Litigation 91
10 D.A.R. 8849 (1991).

11 That Armstrong is amenable to the kind of covert
12 representation in which Yanny is engaging in this case is
13 highlighted by his recorded remarks made in November 1984. At
14 that time, Armstrong was plotting against the Scientology
15 Churches and seeking out staff members in the Church who would
16 be willing to assist him in overthrowing Church leadership. The
17 Church obtained information about Armstrong's plans and,
18 through a police-sanctioned investigation, provided Armstrong
19 with the "defectors" he sought. On November 30, 1984, Armstrong
20 met with one Michael Rinder, an individual whom Armstrong
21 thought to be one of his "agents" (but who in reality was loyal
22 to the Church). In the conversation, recorded with written
23 permission from law enforcement, Armstrong stated the following
24 in response to questions by Mr. Rinder as to whether they had
25 to have actual evidence of wrongdoing to make allegations
26 in Court against the Church leadership:

27 ARMSTRONG: They can allege it. They can allege
28 it. They don't even have -- they can allege it.

1 RINDER: So they don't even have to -- like -- they
2 don't have to have the document sitting in front
3 of them and then --

4 ARMSTRONG: Fucking say the organization destroys
5 the documents.

6 * * *

7 Where are the -- we don't have to prove a goddamn
8 thing. We don't have to prove shit; we just have
9 to allege it.

10 (Ex. E, Declaration of Lynn R. Farny, para. 6.) With such
11 a criminal attitude, Armstrong fits perfectly into Yanny's game
12 plan for the Aznaran case.

13 It is apparent that Yanny's disqualification from this
14 case has simply driven him back underground. He challenged the
15 Court by appearing directly in this case and lost. So he now
16 sends his paralegals to aid Greene in his prosecution of the
17 case, thereby doing indirectly what this Court and the Los
18 Angeles Superior Court have forbidden him to do at all. Greene
19 and the Aznarans are obviously aware that the Court
20 disqualified Yanny and ruled his participation in this case to
21 be "highly prejudicial to Defendants" because of Yanny's former
22 representation of defendants. This was the same order which
23 removed Yanny and put Greene back into the case as plaintiffs'
24 counsel. Thus, the Aznarans, their former attorney and their
25 present attorney are equally culpable for permitting Yanny to
26 continue his participation in this case to the adjudicated

27 ///

28 ///

1 prejudice of defendants. Only the remedy of dismissal can
2 possibly disable their collusion in violation of defendants'
3 rights permanently.

4 Dated: August 26, 1991

Respectfully submitted,

5
6 
WILLIAM T. DRESCHER

7 Earle C. Cooley
8 COOLEY, MANION, MOORE
& JONES, P.C.

9 Attorneys for Defendants
10 CHURCH OF SPIRITUAL TECHNOLOGY
and RELIGIOUS TECHNOLOGY CENTER

11 Eric Lieberman
12 RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

13 John J. Quinn
14 QUINN, KULLY & MORROW

15 Laurie J. Bartilson
BOWLES & MOXON

16 Attorneys for Defendant
17 CHURCH OF SCIENTOLOGY
INTERNATIONAL

18 Michael Lee Hertzberg

19 James H. Berry, Jr.
20 BERRY & CAHALAN

21 Attorneys for Defendant
22 AUTHOR SERVICES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

- - -

RELIGIOUS TECHNOLOGY)
CENTER, et al.,)
)
Plaintiffs,)
)
vs.) No. C690211
)
JOSEPH A. YANNY, et al.,)
)
Defendants.)
-----)

DEPOSITION OF

JOHN J. KORESKO

LOS ANGELES, CALIFORNIA

TUESDAY, JANUARY 10, 1989

ATKINSON-BAKER AND ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
704 South Victory Boulevard, Suite E
Burbank, California 91502
(818) 566-8840

REPORTED BY: KAREN E. HOIDA, CSR NO. 7081

FILE NO.: 890032

A P P E A R A N C E S

FOR PLAINTIFFS:

WYMAN, BAUTZER, KUCHEL & SILBERT
BY: JAMES H. BERRY, ESQ.
2049 Century Park East
14th Floor
Los Angeles, California 90067

FOR DEFENDANTS:

CUMMINS & WHITE
BY: SILVIO T. NARDONI, ESQ.
1600 Wilshire Boulevard
Los Angeles, California 90017-1695

ALSO PRESENT:

NICOLE GARCIA
Video Technician

ARON MASON
Paralegal

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I N D E X

WITNESS: JOHN J. KORESKO

Examination	Page
By Mr. Berry	5

EXHIBITS:

Plaintiffs'	Page
1 Notice of deposition	17
2 200 pages of various documents produced in response to document request	159

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(None)

INFORMATION TO BE SUPPLIED:

(None)

1 a paralegal. Then I was elevated to a different
2 position, and then I -- at a given point in time I
3 went back to paralegal.

4 Q. Okay. When did you first become
5 employed at Herzig & Yanny?

6 A. March '85.

7 Q. In what capacity?

8 A. Paralegal.

9 Q. What kinds of things did you do as a
10 paralegal then?

11 A. Research, draft documents, engage in
12 discovery, sit in on depositions. Normal paralegal
13 things. Write memos.

14 Q. How long did you have that
15 responsibility?

16 A. About four months.

17 Q. Did your responsibility change?

18 A. Yes. A -- Joe elevated me to an
19 office manager position. He needed a central
20 figure in the office to correlate the functions, so
21 he felt that I had the qualifications to make it a
22 cohesive office.

23 Q. And you were reporting directly to
24 him in that capacity?

25 A. Directly to him.

1 Q. How long did you hold that job?
2 A. From approximately June '85 to
3 October '87.
4 Q. October '87?
5 A. '87. '
6 Q. Were you continuously employed by
7 Herzig & Yanny during that period?
8 A. Yes.
9 Q. Did your job function change in
10 October of '87?
11 A. I quit.
12 Q. Did you go to work for somebody else?
13 A. No.
14 Q. Just quit?
15 A. I just had to get away. It was -- I
16 quit, but it was like a leave of absence type
17 thing. I just had to get away. Pressures, you
18 know. The girl pressures, office pressures, money
19 pressures.
20 Q. Just needed a break?
21 A. Los Angeles.
22 Q. Did you leave the city?
23 A. As a matter of fact, I did. I went
24 to Texas, spent a few weeks in Texas with my
25 brother, communed with nature in Arizona and Death

1 Valley, and just generally bummed around, feeling
2 sorry for myself.

3 Q. And then came back to work at Herzig
4 & Yanny?

5 A. Came' back to work.

6 Q. And that --

7 A. They made me an offer I couldn't
8 refuse.

9 Q. That was in December of '87?

10 A. December of '87 I came back to work.

11 Q. Okay.

12 A. In a lesser capacity, less
13 responsibility.

14 Q. When you came back as a paralegal in
15 December of '87, was there a particular person or
16 persons who were designated as the office manager?

17 A. No.

18 Q. Has there been since?

19 A. No, sir.

20 Q. Is there any person who discharges
21 that function of being an administrative
22 coordinator or office manager?

23 A. I do a lot of the functions
24 unofficially. Mr. Yanny would be the last word on
25 decisions that I used to make.

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.
3)
4)

5 I, KAREN E. HOIDA, CSR #7081, Notary
6 Public for the State, of California, certify:

7 That the foregoing proceedings took
8 place before me at the time and place therein set
9 forth;

10 That the testimony of the witnesses and
11 all objections made at the time of the proceedings
12 were recorded stenographically by me and were
13 thereafter transcribed;

14 That the foregoing is a true and correct
15 transcript of my shorthand notes so taken.

16 I further certify that I am neither
17 counsel for nor related to any party to said action
18 nor in anywise interested in the outcome thereof.

19 IN WITNESS WHEREOF, I have subscribed
20 my name and affixed my seal this 17th day of
21 January, 1989.



22 *Karen E. Hoida*
23 _____

24 Notary Public in and for the
25 State of California

DECLARATION OF JOSEPH A. YANNY

I, Joseph A. Yanny, make the following declarations from personal knowledge and could competently testify as set forth below if called upon to do so.

1. Declarant is a member in good standing of the California State Bar.

2. I am not an attorney in fact or of record in any case between Gerald Armstrong and any Church of Scientology entity, nor have I been consulted in that regard by either Scientology or Mr. Armstrong with respect to his litigation. I am informed that Mr. Armstrong has done quite well without me. I am informed that the court of appeals has recently issued an opinion on July 29, 1991 in that regard.

3. Mr. Armstrong has consulted me on literary matters involving questions of intellectual property. I decline to disclose the substance of that consultation further, but I will note, however, for the record, that that consultation had nothing at all to do with Scientology and had no relationship at all to anything I ever worked on for Scientology.

4. I have considered employing and have employed Mr. Armstrong as a paralegal from time-to-time in the past. I believe it would be inappropriate, if not illegal, to require that I not employ ex-Scientologists. Mr. Armstrong's views on Scientology should not cost him employment with my firm or elsewhere.

5. In addition, Mr. Armstrong is a potential witness in litigation I am contemplating against Scientology and in the Aznaran case. For example, Scientology has recently libeled me by

1 publishing materials that, among other things, falsely represent
2 that I was found to be taking drugs and was "unable to maintain an
3 acceptable level of performance and professional conduct." In the
4 context of discussing the litigation, the libelous statement is made
5 that, "Yanny proceeded to break attorney-client confidences." The
6 litigation is described as, "concerning his breach of contractual
7 agreement." (The text will be offered at the hearing.) These
8 claims are libelous per se. I anticipate that Mr. Armstrong may be
9 a witness in the resulting litigation. Mr. Armstrong and the
10 undersigned share the common problem of having been sued maliciously
11 by the plaintiffs herein and is a prospective witness in that
12 regard.

13 6. I have reviewed the purported declaration of Marty
14 Rathbun filed by plaintiffs in support of their request for
15 injunctive relief. The declaration is essentially a fabrication.
16 It is a false description of the conversations I had with Mr.
17 Rathbun on that date. I address what was actually said below. At
18 no time during those conversations did I make any "admissions" to
19 Mr. Rathbun. I have not breached any remaining fiduciary duties,
20 nor have I "confessed" any breaches to Reverend Rathbun. The
21 allegations concerning Ken Rose are particularly bizarre. I have
22 never even met Ken Rose and do not believe I have ever spoken to
23 him. I do not know who he is or what he may doing to make himself
24 a target. I certainly did not discuss him with Mr. Rathbun.

25 7. On the day in question, Friday, July 21, 1991, I had
26 two discussions with Mr. Rathbun. The principal discussion took
27 place in the courthouse cafeteria during the afternoon. Mr. Rathbun
28 approached me and attempted to engage me in conversation. It is now

1 apparent that Mr. Rathbun was attempting to initiate a conversation
2 so that he could offer a false declaration as part of Scientology's
3 mission to attack and destroy the undersigned.

4 8. I also spoke with Mr. Rathbun for several minutes
5 outside the courthouse towards the end of the day. During this
6 brief conversation, Mr. Rathbun commented that this suit was a
7 "grand waste of time." He sarcastically commented, "Can you afford
8 it?" He then added that I was going to go through the same thing
9 again. When I asked him what he meant, his response was, "You
10 know," - an obvious reference to the ordeal of past litigation.
11 I commented to Mr. Rathbun that they were getting beaten in all of
12 the litigation, and that this would continue, because they were
13 criminal and that virtue does eventually triumph in the end. I also
14 remarked that I had seen them attempt to ruin a number of lawyers
15 previously employed by them under similar circumstances, i.e., Barry
16 Litt, Mike Levanus, etc. As to the comments alleged in Mr.
17 Rathbun's declaration, they simply did not occur.

18 9. Earlier in the day, Mr. Rathbun approached me in the
19 cafeteria and engaged me in conversation. He started by remarking
20 that I was "basically a good person" and that they could see to it
21 that I "came out of this okay." Mr. Rathbun then tried to disavow
22 or downplay certain criminal or inappropriate activities, such as
23 stealing medical records and break-ins. I told him to drop the PR
24 pitch, because I was there and knew better.

25 10. During this same conversation, Mr. Rathbun stated
26 that I needed to accept my responsibility for certain things. Mr.
27 Rathbun commented that, back when the relationship deteriorated,
28 "Everything was going south on us." I responded that if he would

1 look at the record he would note that I had obtained good results
2 for them. The problem was that I insisted on exercising my
3 professional judgment rather than blindly following their orders.
4 When I would not go along with some of their more questionable
5 activities or tactics, they questioned my loyalty more than the
6 quality of legal services.

7 11. Mr. Rathbun also stated that I had to accept my
8 "overts" towards them. I indicated that I knew the whole point of
9 the exercise was to ruin me. Pursuant to "tech," they had to "dead
10 agent" me because I had disagreed with their criminal activities and
11 knew too much about them. Accordingly, it was necessary for them
12 to discredit me as a source of unfavorable information.

13 12. With respect to the Aznaran case, Mr. Rathbun's
14 declaration on this point is simply more fabrication or distortion.
15 I stated to Mr. Rathbun that what they had done to the Aznarans was
16 foul play. While they were telling the Aznarans that they wanted
17 to settle their case, in truth Scientology was poising to file
18 lengthy and complex summary judgment motions at a time when the
19 Aznarans were in propria persona. Scientology not only filed
20 hundreds of pages of moving papers when the Aznarans were in pro
21 per, they would not even stipulate to extensions of time for
22 responsive papers. Scientology was attempting to reap a windfall
23 by default in the courts. As an officer of the courts I was
24 compelled to test the issue of whether I could represent the
25 Aznarans.

26 13. Mr. Rathbun's response was reminiscent of the "Fair
27 Game" policy. He did not deny that they were playing dirty pool.
28 Mr. Rathbun commented that since the Aznarans had sued Scientology,

1 they deserved whatever treatment they received from Scientology.
2 I told Mr. Rathbun that as an officer of the court I felt a duty to
3 see to it that their dirty tricks did not bring about a miscarriage
4 of justice. I informed Reverend Rathbun that he, too, had a duty
5 to see to it that everyone obtained due process, and that this
6 included the Aznarans.

7 14. Mr. Rathbun remarked that I apparently expected him
8 to "go into agreement with the universe." I told him that he did
9 not have to go into agreement with the universe, but that he had to
10 deal with it and should do so within the rules. I told Reverend
11 Rathbun that despite some of his criminal attitudes, he really was
12 basically a good person and that if he ever came to his senses he
13 would no doubt find himself locked up in the desert for it, just
14 like Vicki was. I told him that if such a thing should occur, to
15 make sure he kept my telephone number in a safe place, because he
16 would be welcome in my house as a place of refuge.

17 15. During my conversations with Mr. Rathbun, I mentioned
18 the "RICO" case referred to in Paragraph 2(a) of Mr. Rathbun's
19 declaration. I mentioned to Mr. Rathbun that I had heard that
20 things were not going well for them in that case. I am aware that
21 the court has entered evidentiary sanctions for Scientology's
22 refusal to produce documents and apparent destruction of relevant
23 evidence. It has also come to my attention that Scientology has
24 suffered some serious set-backs recently in that case. These are
25 matters of public record, which are monitored by myself and others.
26 That Scientology would consider it inappropriate for me to know such
27 things only evidences their paranoia.

28 16. I am interested in such developments for several

1 reasons. First, Scientology has recently defamed me again by
2 asserting that I performed incompetently. I believe an examination
3 of events would reveal that the RICO case went well for Scientology
4 when I was working on it. Since my departure from the case,
5 Scientology's position has substantially deteriorated.

6 17. With respect to Mr. Rathbun's comments at Paragraph
7 2(c), this is a false repetition of the old claim that I am somehow
8 responsible for Bent Corydon's litigation. Mr. Corydon is a long-
9 time critic of Scientology and author of L. Ron Hubbard: Messiah or
10 Madman? I applaud Mr. Corydon for standing up to and exposing these
11 idiots. Mr. Rathbun's declaration on this point is simply another
12 fabrication. Further, the comments are somewhat strange in that it
13 is my understanding that Mr. Corydon has recently settled his
14 litigation with Scientology.

15 18. Contrary to the Rathbun declaration, I have not been
16 nor have I made representation that I have been coordinating and
17 agitating former church members to generate adverse publicity. This
18 again evidences their propensity to see conspiracies everywhere.
19 I certainly did not make such a claim to Mr. Rathbun.

20 19. I am not in a position to make most existing
21 adversaries of the church "go away." I did not make that claim to
22 Mr. Rathbun. Mr. Rathbun has apparently distorted our conversation
23 into whatever false statements he feels he needs to make in order
24 to succeed before this court and is acting in conformity with the
25 "Fair Game" policy previously recognized by this court in, as
26 Scientology calls it, the Yanny I litigation, and most recently by
27 the court of appeals in the Armstrong decision, which I will supply
28 a copy of to this court at the time of the hearing of this matter.

1 "Reverend" Rathbun is a Scientologist, perceives me as an enemy, and
2 consequently will lie, cheat, and do anything he needs to, per
3 policy, to destroy the undersigned. I can only explain the contents
4 of his declaration in that fashion. This court has previously dealt
5 with his testimony and should give it as much weight now as it did
6 then.

7 20. With respect to the Aznaran case in federal court,
8 I properly reacted to what I perceived to be a crisis situation
9 created by Scientology and previously documented to this court. I
10 would have preferred not to have become involved. However, it was
11 and is my professional opinion that as an officer of the court it
12 was appropriate for me to have entered an appearance in that case
13 and allow the appropriate "case-by-case" determination to be made
14 in the appropriate court. In the alternative, I was faced with a
15 possible miscarriage of justice occurring without the undersigned
16 even testing the water as to whether there was anything I could do
17 about it. It was and remains the right thing to have done under the
18 rather unusual and perverted circumstances confronting me. The
19 decision to test the issue was not taken lightly. I expected a
20 motion to disqualify me; however, I also expected an opportunity to
21 present my defenses to such a motion which, although unusual, are
22 substantial. Among other things, there has been a substantial
23 waiver of privilege by Scientology's attacks on and defamation of
24 the undersigned. The Aznaran case is not substantially related to
25 my previous work for Scientology. Unfortunately, Judge Ideman acted
26 without hearing any arguments or proof on the issues of waiver and
27 substantial relationship.

28 21. In many respects this is a tempest in a teapot. In

1 addition to being seen with Gerald Armstrong, I filed an appearance
2 in the Aznaran case. I sought an extension of time in which to
3 respond to summary judgment motions first from opposing counsel and
4 then from the court. I suggested to Mr. Quinn that they continue
5 the summary judgment hearings until such time as the Aznarans'
6 representation could be straightened out. Scientology declined that
7 most reasonable suggestion. Accordingly, I filed motions to obtain
8 extensions of time. Ultimately, the court revoked the substitution
9 of attorney and reinstated Ford Greene as counsel of record.
10 Presumably, Mr. Greene is responding to pending motions.

11 22. My appearance in the Aznaran case was so transitory
12 that I was personally never in possession of the file. Under the
13 circumstances, I never had an opportunity to do any work on the
14 merits of the case. No discovery or trial preparation was done
15 during my brief tenure as counsel of record.

16 I declare under penalty of perjury under the laws of the
17 State of California and the United States that the foregoing is true
18 and correct.

19 Executed on July 31, 1991, at Los Angeles, California.

20
21 
22 JOSEPH A. YANNY
23
24
25
26
27
28

EXHIBIT C

HUB LAW OFFICES
Ford Greene, Esquire
California Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Plaintiffs
VICKI J. AZNARAN and
RICHARD N. AZNARAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N.
AZNARAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

Defendants.

AND RELATED COUNTER CLAIM

No. CV-88-1786-JMI(Ex)

PLAINTIFFS' EX PARTE
APPLICATION FOR AN ORDER
ALLOWING PLAINTIFFS TO
RESPOND TO ALL PENDING
MOTIONS ON OR BEFORE
AUGUST 26, 1991; MEMORANDUM
OF POINTS AND AUTHORITIES
AND DECLARATION OF FORD
GREENE IN SUPPORT THEREOF

Plaintiffs VICKI J. AZNARAN and RICHARD N. AZNARAN
(hereinafter "Plaintiffs" or "Aznarans") hereby apply to this
Court, ex parte, for relief in a number of regards all of which
pertain to the pending motions that have been filed by defendants
over the course of the past two months.

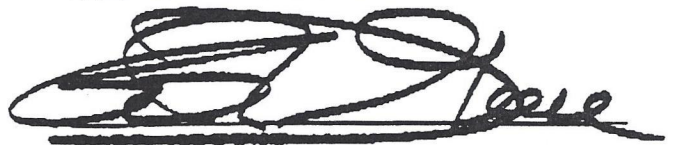
Plaintiffs base this Ex Parte Application on the fact that at
the time said motions were filed, plaintiffs either were without
counsel, with counsel who was subsequently disqualified and all
papers filed by him stricken, or in the process of obtaining new

1 counsel.

2 The legal basis for this Ex Parte Application is Federal Rule
3 of Civil Procedure 6 and Local Rule 7.3.2.

4
5 DATED: August 1, 1991

HUB LAW OFFICES

6
7 

8 FORD GREENE
Attorney for Plaintiffs

9 DECLARATION OF FORD GREENE

10 FORD GREENE declares:

11 1. I am an attorney licensed to practice law in the Courts
12 of the State of California, am admitted to practice before this
13 court and am the attorney of record for Vicki J. Aznaran and
14 Richard N. Aznaran, plaintiffs herein.

15 2. On June 7, 1991, I acceded to the request of plaintiffs
16 and executed substitutions of attorney whereby both plaintiffs, in
17 pro per, were substituted in my place and stead.

18 3. On July 1, 1991, plaintiffs jointly filed the
19 substitutions which placed them in pro per, with additional
20 substitutions whereby attorney Joseph A. Yanny became attorney of
21 record.

22 4. On July 24, 1991, the Court vacated all of the
23 substitutions, reinstated Ford Greene as attorney of record, and
24 ordered that cause be shown by August 2 if plaintiffs desired to
25 substitute counsel. Additionally, the Court ordered that all
26 motions thereafter had to be noticed no later than August 19, 1991,
27 and not exceed the 35 page limit.

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1 5. From June 19, through July 29, 1991 defendants served the
2 following motions:

3	4	5	6	7	8	9	10	11	12
	<u>Srvc. Date</u>	<u>Hrg. Date</u>	<u>Nature of Motion</u>	<u>Pages of Memo</u>	<u>Pages of Exhibits</u>				
5	6/19/91	7/22/91	Summary Judgment Statute of Limitations	50 plus 22 page sep. statement	658				
6	7/5/91	8/5/91	Summary Judgment First Amendment	98 plus 16 page sep. statement	926				
7	7/29/91	8/19/91	Exclude expert's testimony	35	405				
8	7/29/91	8/19/91	Sep. trial on issue of releases	16	114				
9	7/29/91	8/19/91	To Dismiss	31 plus 6 page sup. brief	303				
10	7/29/91	8/19/91	To Strike	11	15				

13 6. Thus, while the Aznarans have been making efforts to find
14 counsel possessing the requirements to try this extraordinary case,
15 defendants have filed six motions the memoranda of which total 285
16 pages and the exhibits to which total 2,421 pages. This truly is an
17 phenomenal amount of activity, particularly when the Aznarans'
18 legal representation was, at best, unstable.

19 7. The first motion (for summary judgment on statute of
20 limitations issues that is 72 pages in length) was filed shortly
21 after the Aznarans were *in pro per*. The second motion (for summary
22 judgment on First Amendment grounds that is 114 pages in length)
23 was filed shortly after Yanny's interjection into the case. Without
24 addressing the merits of any of the motions, the sheer size and
25 timing thereof could not help but to stress plaintiffs' ability to
26 prosecute their causes of action against defendants to the maximum.

27 8. On July 3, 1991, attorney Yanny on plaintiffs' behalf
28 sought an ex parte order continuing the hearing on the statute of

1 limitations summary judgment motion for "at least sixty (60) days."
2 Plaintiffs' opposition thereto was to be filed and served on or
3 before July 8.

4 9. On July 9, 1991, attorney Yanny on plaintiffs' behalf
5 sought another ex parte order continuing the hearing on the First
6 Amendment summary judgment motion. Plaintiffs' opposition thereto
7 was to be field and served on or before July 22.

8 10. I first became aware of the Court's Order reinstating me
9 as attorney of record on July 26. At that time, I was aware that
10 plaintiffs were in contact with Mr. Elstead with whom I understood
11 plaintiffs to be in negotiations to act as counsel in this case.
12 (The Court is respectfully requested to consider the Declarations
13 of Ford Greene, John Clifton Elstead, Vicki J. Aznaran and Richard
14 N. Aznaran filed in conjunction with the Association of Counsel
15 filed concurrently herewith.)

16 11. On July 31, 1991, I met with Mr. Elstead and, with
17 plaintiffs' concurrence, we determined not to substitute me out and
18 Mr. Elstead in as attorney of record, but to associate him as trial
19 counsel. On the same day I obtained the case file from Mr. Elstead.
20 The file had been out of my possession ever since I had Federal
21 Expressed it to Los Angeles on June 27. Also on that date I spoke
22 with Tammy, the Court's clerk who advised me that the Court had
23 stricken all papers filed by Joseph A. Yanny as being moot in light
24 of the Court having vacated the Yanny substitution. Thus, the Court
25 would not be ruling on the ex parte applications, submitted by Mr.
26 Yanny, regarding defendants' two pending summary judgment motions.
27 Regretably, at that point, the time within which plaintiffs'
28 oppositions thereto should had been filed had expired.

1 12. Prior to the exclusion of Yanny from the case,
2 plaintiffs' ex parte requests for continuances of the hearing dates
3 regarding the summary judgment motions were submitted in a timely
4 fashion. With the vacation of the Yanny substitution having
5 occurred after the date for opposition had passed, however, in
6 consequence the Aznarans now stand in default.

7 13. With respect to the motions noticed for August 19, the
8 oppositions thereto shall be served and filed on or before Monday,
9 August 5, 1991.

10 14. There is no possible way that I can oppose the pending
11 motions by August 5, not to mention the motions for summary
12 judgment.

13 15. Based on the circumstances described above, plaintiffs
14 respectfully request that they be allowed to and including August
15 26, 1991, to file their oppositions to all pending motions. While
16 plaintiffs in all practicality would need more time to effectively
17 oppose the motions, plaintiffs recognize that to ask for anything
18 more would intrude way too far into the Court's capacity to
19 consider the motions within the limit set by the September 16 Pre-
20 Trial Conference and the October 15 Trial Date.

21 16. On this date I spoke with Laurie Bartilson, attorney for
22 defendants, who advised me that defendants oppose the instant Ex
23 Parte Application. Additionally, I left word with Julie, the
24 secretary for attorney John Quinn, and advised her that I would be
25 seeking relief through the instant application.

26 ///

27 ///

28 ///

1 Under penalty of perjury pursuant to the laws of the State of
2 California I hereby declare that the foregoing is true and correct
3 according to my first-hand knowledge, except those matters stated
4 to be on information and belief, and as to those matters, I believe
5 them to be true.

6 Executed on August 1, 1991, at San Anselmo, California

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8
9 FORD GREENE

10
11 MEMORANDUM OF POINTS AND AUTHORITIES

12 As set forth above, extraordinary circumstances exist which
13 have resulted in the Aznarans being in default as to two summary
14 judgment motions, and at the threshold of default concerning the
15 remaining four motions. Thus, the Aznarans' failure to file papers
16 in opposition to the two pending summary judgment motions "may be
17 deemed by the Court [as] consent to the granting of the motion."

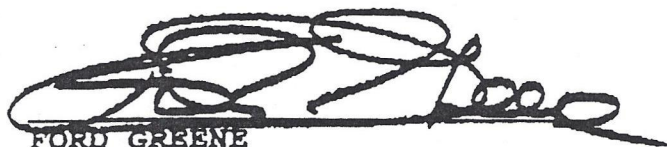
18 Local Rule 7.9.

19 This Court has the authority pursuant to the Federal Rules or
20 the Local Rules to enlarge time before or after the date by which
21 opposition papers are to have been filed. F.R.Civ.P. 6, Local Rule
22 7.3.2.

23 Plaintiffs thus respectfully request, based upon the
24 procedural history of this case over the course of the past two
25 months, the Court grant their application and issue its order
26 allowing plaintiffs to file opposing papers to all outstanding
27 motion provided that such papers be filed and served on or before
28 August 26, 1991.

1 DATED: August 1, 1991

HUB LAW OFFICES

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4 FORD GREENE
Attorney for Plaintiffs

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HUB LAW OFFICES
FORD GREENE, Esquire
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1849
(415) 288-0860

DECLARATION OF SAM BROWN

I, Sam Brown, hereby declare:

1. I am over the age of eighteen. I am a licensed private investigator in northern California. I run an investigation firm called Sam Brown and Associates. I have personal knowledge of the facts set forth below, except as stated to be on information and belief, and as to those facts, I believe them to be true. If called upon to do so, I could and would competently testify thereto.

I ran a surveillance outside the law offices of Ford Greene at 711 Sir Francis Drake Boulevard, San Anselmo, California during the period from August 15 through August 21, 1991. I have been informed and believe that Greene is the attorney for plaintiffs in the case of Aznaran v. Church of Scientology of California, et al., Case No. CV 88-1786 JMI (Ex) in Los Angeles Federal court.

3. During the course of this surveillance, a white male having long brown hair tied back in a pony tail, was observed entering and leaving the Greene law offices each day from the 15th through the 21st. This man spent most of the day at the offices. He was also observed bringing in boxes from Kinko's copy center.

4. This individual was videotaped entering and leaving the building and standing in front of it on

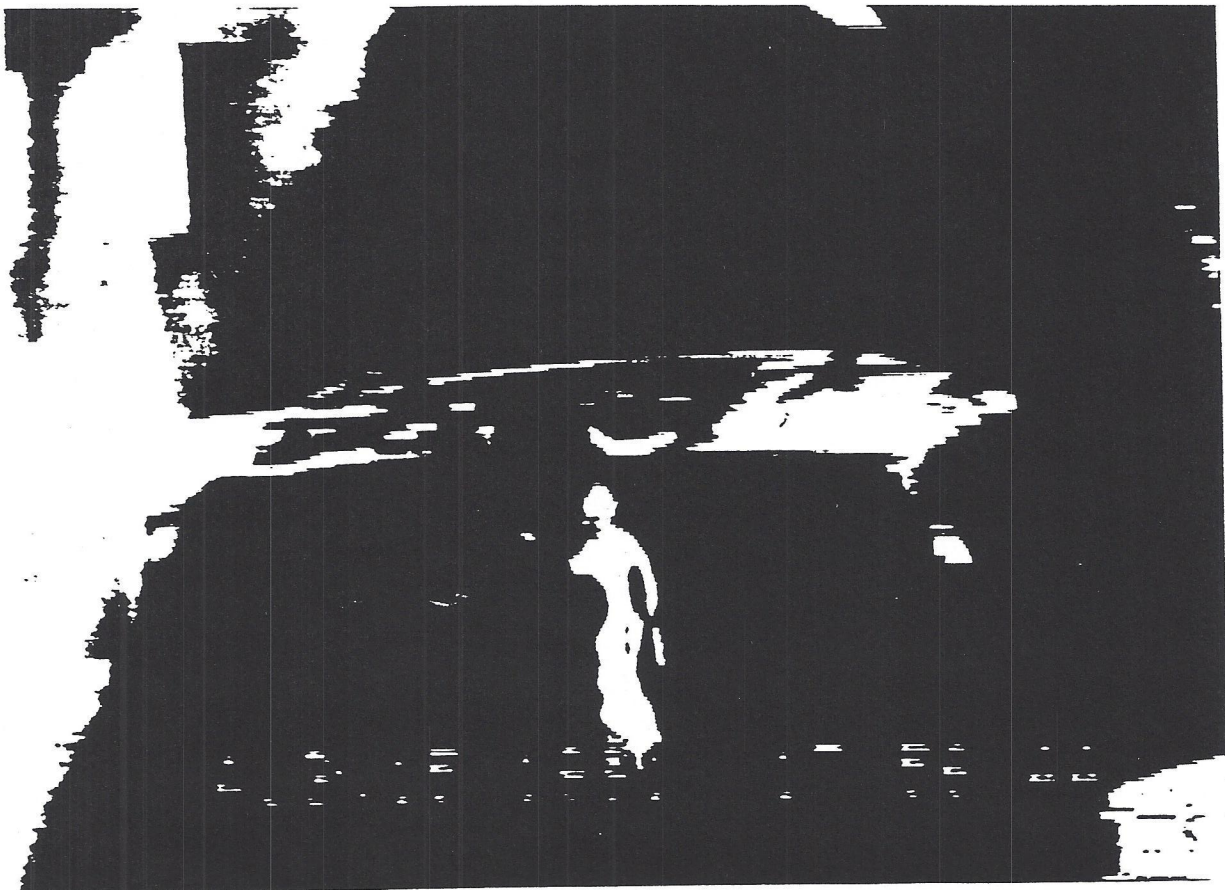
1 | several different days. Some portions of the video have
2 | been printed as still photographs and are attached hereto
3 | as exhibit A.

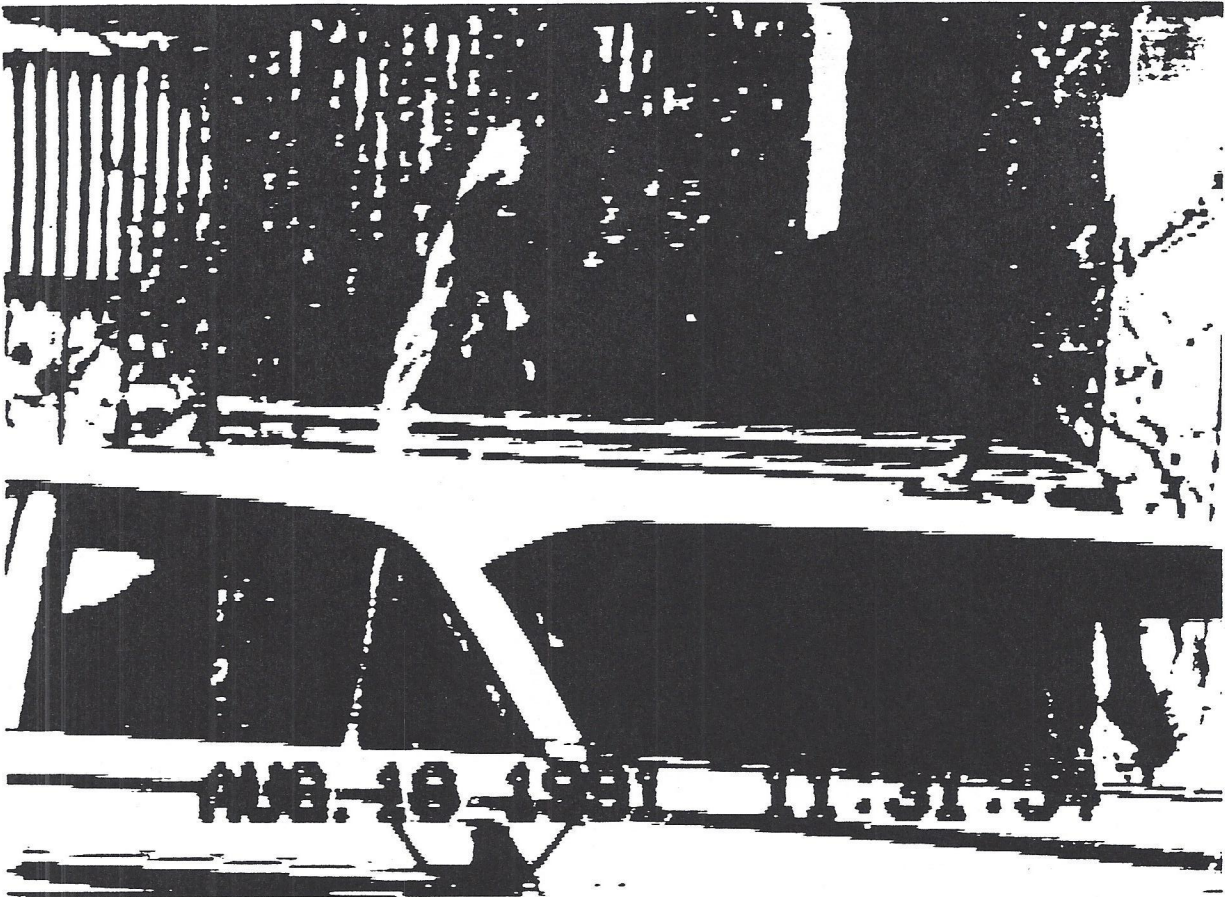
4 | 5. I was informed by the law firm which represents
5 | some of the defendants in the Aznaran case that the man
6 | in these photographs is an individual known as Gerald
7 | Armstrong.

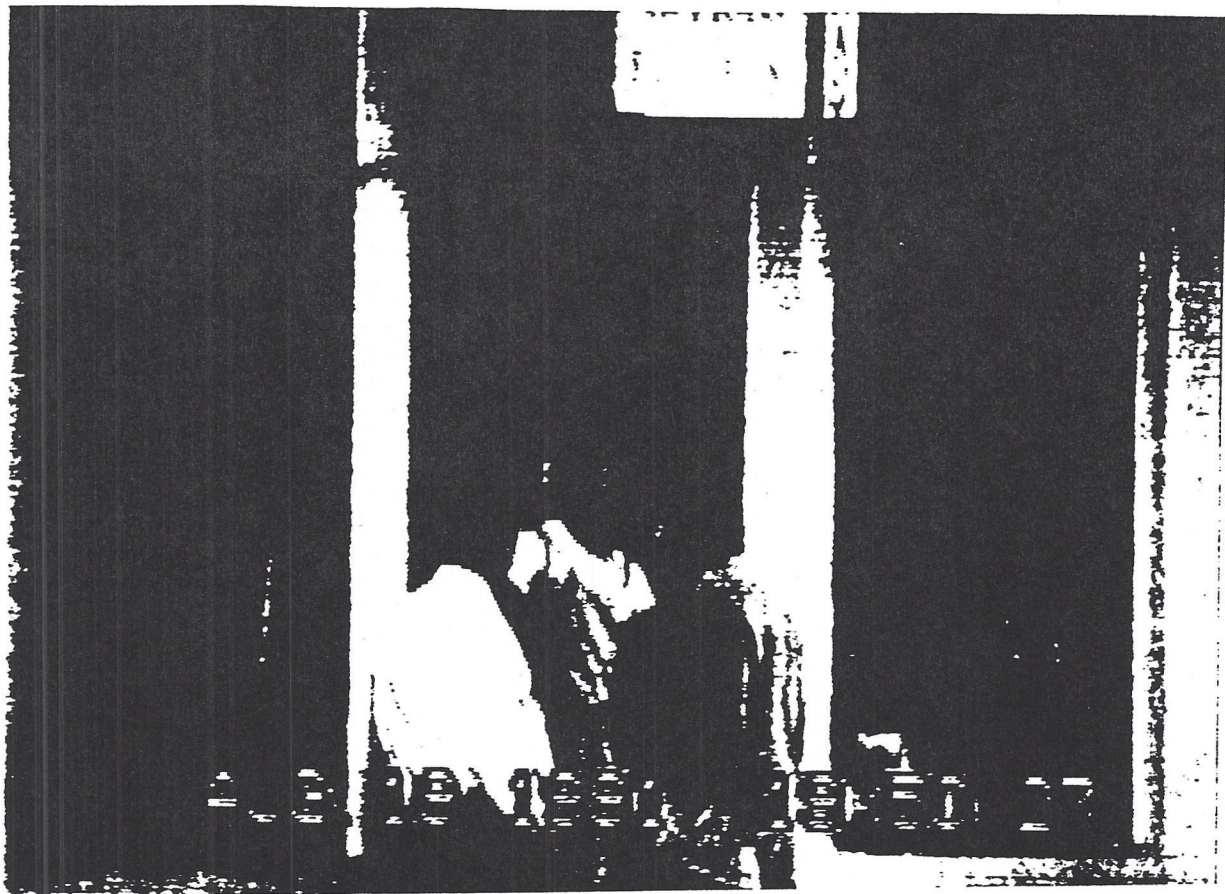
8 | I declare under penalty of perjury that the
9 | foregoing is true and correct.

10 | Executed at San Francisco, California the 26th day
11 | of August 1991.

12 | 
13 | SAM BROWN



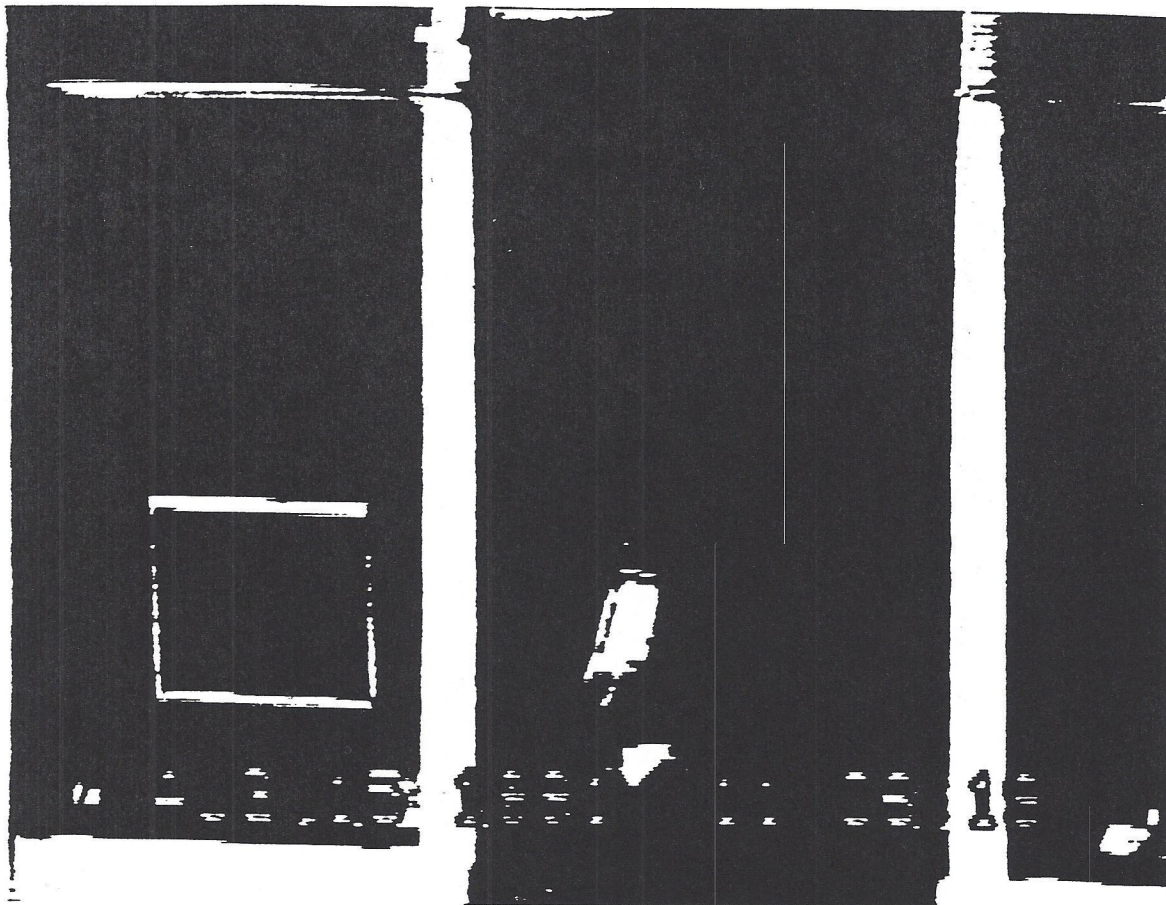






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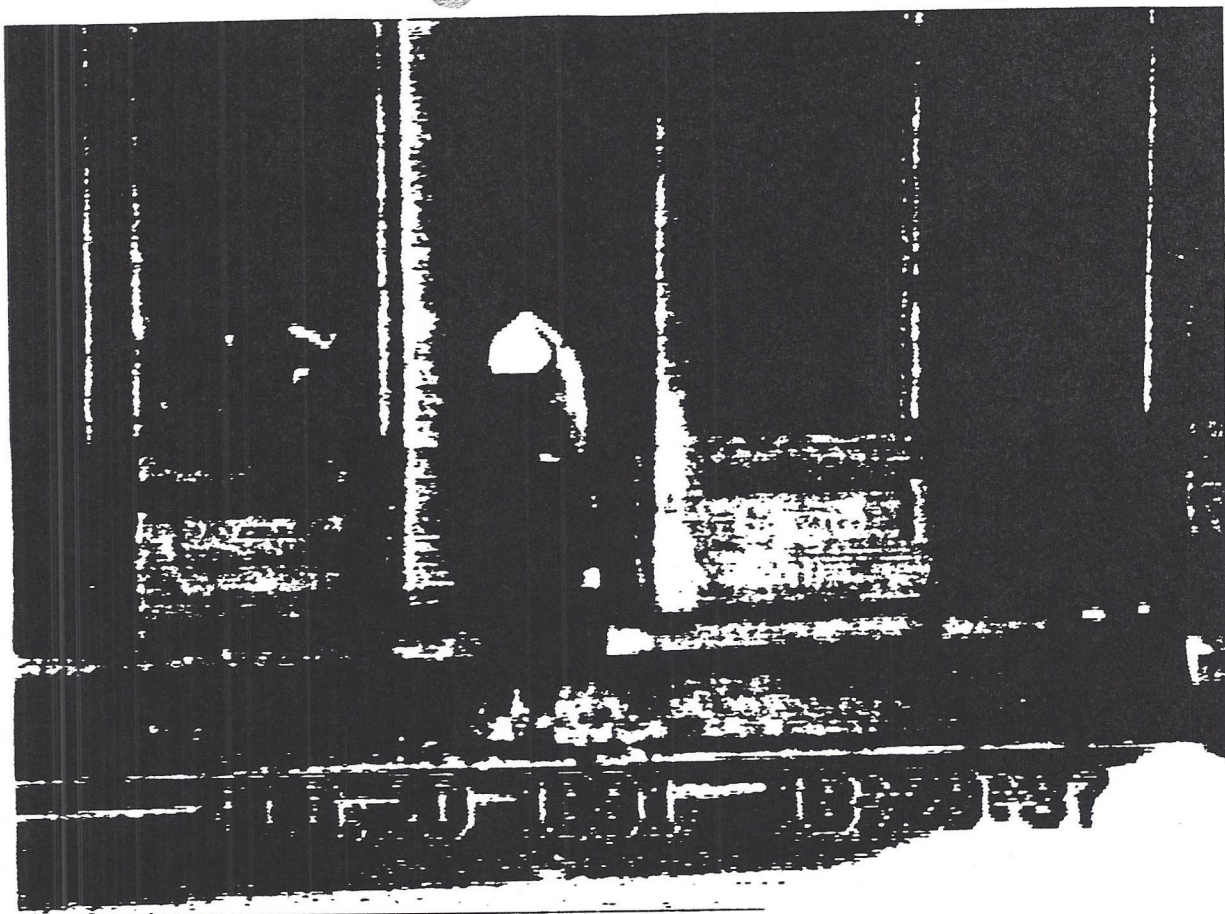




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DECLARATION OF LYNN R. FARNY

I, Lynn R. Farny, do declare:

1. I am over 18 years of age and make this declaration of my own personal knowledge and for those matters stated upon information and belief, I believe them to be true and accurate. If called as a witness to testify as to the matters herein, I could and would do so competently.

2. I am corporate Secretary of the Church of Scientology International ("CSI"), a California religious corporation.

3. I have reviewed the photographs which are attached to the declarations of Sam Brown and Thorn Smith, Exhibits D and I to the Supplemental Memorandum in Support of Motion to Dismiss the Complaint. I recognize the individual in the photographs attached to the Smith declaration as John Koresko and the individual in the photographs attached to the Brown declaration as Gerald Armstrong.

4. I am well familiar with Gerald Armstrong, as I have worked in the legal department of CSI since 1984, and prior to that in the legal department of Church of Scientology of California ("CSC"). I have actively followed the events occurring during that time in lawsuit against Gerald Armstrong by CSC regarding his theft of private documents belonging to the Founder of the Scientology religion.

5. I am also well familiar with John Koresko, who was office manager and later a paralegal for Joseph A. Yanny, CSI's former attorney, during the time that Yanny represented

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1 CSI and afterwards, when CSI and CSC sued Yanny for his
2 breaches of fiduciary duties.

3 6. That Armstrong is amenable to the kind of covert
4 representation in which Yanny is engaging in this case is
5 highlighted by his recorded remarks made in November 1984. At
6 that time, Armstrong was plotting against the Scientology
7 Churches and seeking out staff members in the Church who would
8 be willing to assist him in overthrowing Church leadership. The
9 Church obtained information about Armstrong's plans and,
10 through a police-sanctioned investigation, provided Armstrong
11 with the "defectors" he sought. On November 30, 1984, Armstrong
12 met with one Michael Rinder, an individual whom Armstrong
13 thought to be one of his "agents" (but who in reality was loyal
14 to the Church). In the conversation, recorded with written
15 permission from law enforcement, Armstrong stated the following
16 in response to questions by Mr. Rinder as to whether they had
17 to have actual evidence of wrongdoing to make allegations
18 against the Church leadership:

19 ARMSTRONG: They can allege it. They can allege
20 it. They don't even have -- they can allege it.

21 RINDER: So they don't even have to -- like -- they
22 don't have to have the document sitting in front
23 of them and then --

24 ARMSTRONG: Fucking say the organization destroys
25 the documents.

26 * * *

27 Where are the -- we don't have to prove a goddamn
28 thing. We don't have to prove shit; we just have

1 to allege it.

2 I declare under penalty of perjury under the laws of the
3 State of California that the foregoing is true and correct.

4 Executed in Los Angeles, California the 26th day of August
5 1991.

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7 LYNN R. FARNY
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EXHIBIT F

DECLARATION OF LAURIE J. BARTILSON

I, LAURIE J. BARTILSON, hereby declare and state:

1. I am co-counsel of record for plaintiffs in the case of Aznaran v. Church of Scientology of California, et al., Case No. CV 88-1786 JMI(Ex). I have personal knowledge of the matters set forth herein and, if called upon to do so, could and would competently testify thereto.

2. On August 19, 1991, I called the offices of Ford Greene, counsel for plaintiffs in this case, to arrange to have a courier pick up several oppositions which plaintiffs were due to file that day.

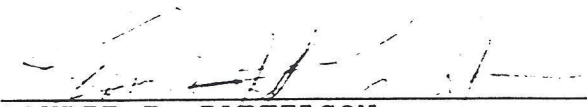
3. The person who answered the telephone in Mr. Greene's office identified himself as Gerald Armstrong. When queried, Armstrong stated that he was at Greene's office "helping out." I recognized that Armstrong was a person who has been a long-term litigation adversary of my client, Church of Scientology of California, having been sued for conversion of documents belonging to the Church's Founder.

4. In addition, in a case pending in Los Angeles Superior Court, Religious Technology Center, et al. v. Yanny, Case No. BC 033035. Armstrong and Joseph Yanny have both filed declarations under penalty of perjury that Armstrong was hired by Yanny as a paralegal to work on this case. (Ex. B, Declaration of Joseph A Yanny, July 31, 1991, para. 4; Ex. H, Declaration of Gerald Armstrong, July 19, 1991, para. 4). Even though Yanny protested its issuance, partially on the ground that Armstrong was his paralegal in this case (Ex. G, Transcript of August 6, 1991, at 25), Yanny was preliminarily

1 enjoined in that case from directly or indirectly acting as
2 counsel against defendants on behalf of either the Aznarans or
3 Gerald Armstrong.

4 I declare under the penalties of perjury under the laws of
5 California and the United States of America that the foregoing
6 is true and correct.

7 Executed this 7th day of August at Los Angeles, California.

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11 LAURIE J. BARTILSON
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41

HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A)
CALIFORNIA NON-PROFIT RELIGIOUS)
CORPORATION; CHURCH OF SCIENTOLOGY)
INTERNATIONAL, A CALIFORNIA NON-PROFIT)
RELIGIOUS CORPORATION; AND CHURCH OF)
SCIENTOLOGY OF CALIFORNIA, A)
CALIFORNIA NON-PROFIT RELIGIOUS)
CORPORATION,)

PLAINTIFFS,)

VS.)

JOSEPH A. YANNY, AN INDIVIDUAL;)
JOSEPH A. YANNY, A PROFESSIONAL LAW)
CORPORATION; AND DOES 1 THROUGH 25,)
INCLUSIVE,)

DEFENDANTS.)

SUPERIOR COURT
CASE NO. BC 033035

REPORTER'S TRANSCRIPT

AUGUST 6, 1991

APPEARANCES:

(AS NOTED ON NEXT PAGE.)

COPY

LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

APPEARANCES:

FOR PLAINTIFF CHURCH
OF SCIENTOLOGY:

QUINN, KULLY & MORROW
BY: JOHN J. QUINN
520 SOUTH GRAND AVENUE
8TH FLOOR
LOS ANGELES, CALIFORNIA
(213) 622-0300

FOR PLAINTIFF RELIGIOUS
TECHNOLOGY CENTER:

WILLIAM T. DRESCHER
23679 CALABASAS ROAD
SUITE 338
CALABASAS, CALIFORNIA 91302
(818) 591-0039

FOR DEFENDANT JOSEPH
A. YANNY, INDIVIDUALLY:

CUMMINGS & WHITE
BY: BARRY VAN SICKLE
865 SOUTH FIGUEROA STREET
24TH FLOOR
LOS ANGELES, CALIFORNIA 90017
(213) 614-1000

FOR DEFENDANT JOSEPH
A. YANNY, A PROFESSIONAL
CORPORATION:

JOSEPH A. YANNY
1925 CENTURY PARK EAST
SUITE 1260
LOS ANGELES, CALIFORNIA 90067
(213) 551-2966

LOS ANGELES, CALIFORNIA

TUESDAY, 8-6-91 # 9:32 A.M.

DEPT. 41

HON. RAYMOND CARDENAS, JUDGE

APPEARANCES: (AS NOTED ON TITLE PAGE.)

- - O - -

THE COURT: RELIGIOUS TECHNOLOGY CENTER VERSUS
YANNY.

THE MATTER IS HERE FOR HEARING ON THE
QUESTION OF THE PRELIMINARY INJUNCTION.

THE COURT HAS HERETOFORE SIGNED A TEMPORARY
RESTRAINING ORDER, JULY 31ST, AND AT THIS TIME, I WILL HAVE
THE PARTIES IDENTIFY THEMSELVES AND THEIR APPEARANCE.

MR. DRESCHER: GOOD MORNING, YOUR HONOR.

WILLIAM DRESCHER ON BEHALF OF THE PLAINTIFF
RELIGIOUS TECHNOLOGY CORPORATION.

MR. QUINN: JOHN QUINN ON BEHALF OF CHURCH OF
SCIENTOLOGY INTERNATIONAL.

MR. VAN SICKLE: BARRY VAN SICKLE ON BEHALF OF
JOSEPH A. YANNY, AN INDIVIDUAL.

MR. YANNY: AND JOSEPH A. YANNY ON BEHALF OF JOSEPH
A. YANNY, A PROFESSIONAL CORPORATION, YOUR HONOR.

THE COURT: THE COURT HAS BEFORE IT A QUESTION OF
WHAT, IF ANY -- WHETHER IT WILL ISSUE A PRELIMINARY
INJUNCTION OR NOT IN LIGHT OF CASE NO. BC 033035.

THE COURT HAS ISSUED THE TRO AS A STOPGAP
MEASURE. I'LL TELL YOU AT THE OUTSET THAT I THINK THAT
I'VE SIGNED IT FOR A TRO, BUT THAT IT'S TOO BROAD IN

1 NATURE, SO WE GET BACK TO THE FIRST ISSUE, HOWEVER, IS
2 WHETHER OR NOT ANY PRELIMINARY INJUNCTION SHOULD ISSUE.

3 TWO THINGS OCCUR HERE. THERE ARE TWO
4 PARTIES, NAMELY, THE QUESTION OF MR. YANNY REPRESENTING THE
5 AZNARANS AND MR. YANNY REPRESENTING MR. ARMSTRONG.

6 I MIGHT POINT OUT THAT IN YANNY I, AS IT'S
7 BEEN REFERRED TO -- AND YOU ALL KNOW THAT I'M REFERRING TO
8 THE OTHER CASE THAT WAS PRESENTED HERE IN COURT -- I'M NOT
9 GOING TO REPEAT IT, I'LL JUST REFER TO IT AS YANNY I --
10 YANNY I WAS, AMONG OTHER THINGS, A REQUEST BY PLAINTIFFS TO
11 PREVENT MR. YANNY FROM DISCLOSING SECRETS OR CONFIDENCES
12 THAT HE RECEIVED TO OTHERS, AND THE COURT RULED THAT THE
13 PLAINTIFF DID NOT PROVE ITS CASE, THAT IS, TO IDENTIFY THE
14 SECRETS OR THE CONFIDENCES THAT WERE BEING DISCLOSED, AND
15 THE COURT RULED THAT IT DID NOT, MEANING THE PLAINTIFFS,
16 DID NOT PROVE DAMAGE WITH RESPECT TO THAT.

17 THE PICTURE IS NOW CHANGED, AND PART OF THE
18 COURT'S OPINION IN YANNY I, THE COURT ALLUDED TO THE FACT
19 THAT MR. YANNY HAD SHOWN A PROPENSITY TO PERHAPS BE ON THE
20 BORDERLINE OF A BREACH OF A DUTY TO A FORMER CLIENT IN THE
21 OTHER CASE.

22 NOW, WHAT HAS TRANSPIRED IS THAT, FACTUALLY,
23 MR. YANNY REPRESENTED THE CHURCH, OR THE PLAINTIFFS, FOR A
24 PERIOD OF YEARS, AND THAT'S ADMITTED, AND AT THAT TIME, MS.
25 AZNARAN --

26 AND I FORGET HER HUSBAND'S NAME.

27 MR. YANNY: RICHARD.

28 THE COURT: -- RICHARD, WERE PART OF THE CHURCH, OR

1 THE PLAINTIFFS, AND SO NOW WE HAVE A SITUATION WHERE MR.
2 YANNY HAS ACTUALLY APPEARED FOR THE AZNARANS IN THE FEDERAL
3 COURT AGAINST THE PLAINTIFFS, WHICH BRINGS INTO PLAY
4 WHETHER OR NOT -- WHETHER THERE IS A REMEDY WHERE A LAWYER
5 IS REPRESENTING SOMEONE AGAINST A FORMER CLIENT, AND THE
6 QUESTION IS WHETHER OR NOT THAT'S IN VIOLATION OF THE RULES
7 OF PROFESSIONAL CONDUCT, RULE 33-310(D), AND ALSO RULES OF
8 PROFESSIONAL CONDUCT 6068, SUBDIVISIOIN (E).

9 THE PICTURE IS QUITE DIFFERENT THAN IN THE
10 FORMER CASE, BECAUSE, HERE, WE HAVE NO NEED FOR THE
11 PLAINTIFFS TO POINT OUT WHAT SPECIFIC SECRETS OR
12 CONFIDENCES ARE BEING DISCLOSED, BUT RATHER, IT'S PRESUMED
13 THAT THERE'S AN ADVERSE REPRESENTATION, AND THE ONLY ISSUE
14 THAT WE HAVE, AT LEAST RIGHT NOW, WOULD BE WHETHER THERE'S
15 A SUBSTANTIAL RELATIONSHIP BETWEEN WHAT YANNY DID, OR FOR
16 THE PLAINTIFFS, WHAT INTERESTS HE REPRESENTED, VERSUS WHAT
17 HIS INTERESTS ARE NOW AND WHAT INTERESTS ARE BEING
18 REPRESENTED IN THE AZNARAN CASE.

19 THE ARMSTRONG CASE IS SOMEWHAT DIFFERENT,
20 ALTHOUGH I THINK IT'S UNDISPUTED THAT YANNY REPRESENTED THE
21 PLAINTIFFS AGAINST ARMSTRONG AT SOMETIME -- AND MAYBE
22 THAT'S A WRONG ASSUMPTION -- MR. YANNY'S SHAKING HIS HEAD
23 -- BUT MR. YANNY, I BELIEVE, REPRESENTED THE PLAINTIFFS IN
24 MANY RESPECTS, AND IN PARTICULAR, I THINK BROUGHT OR WAS IN
25 CHARGE OF LEGAL ACTION PRESERVING THE COPYRIGHT INTERESTS
26 OF THE PLAINTIFFS AND OTHER INTERESTS.

27 SO THE QUESTION HERE IS WHETHER OR NOT A
28 RESTRAINING ORDER SHOULD BE MADE TO PRECLUDE MR. YANNY FROM

1 REPRESENTING ARMSTRONG, PRESUMPTIVELY, IF HE IS. THAT'S A
2 QUESTION, I THINK, MR. YANNY DENIES, BUT EVEN IF HE WAS, IS
3 THERE A MATERIAL OR SUBSTANTIAL RELATIONSHIP BETWEEN THE
4 INTERESTS THAT MR. YANNY HAD IN PROTECTING FOR THE
5 PLAINTIFFS AND THOSE THAT HE PURSUES OR IS ALLEGED TO BE
6 PURSUING FOR MR. ARMSTRONG?

7 IT'S A LONG-WINDED WAY OF SUMMARIZING WHERE
8 WE'RE AT, AND TO BEGIN WITH, MR. VAN SICKLE: IN LIGHT OF
9 MR. YANNY'S ADMITTED REPRESENTATION OF AZNARANS IN FEDERAL
10 COURT, WHY ISN'T THERE A VIOLATION OF THE RULES OF
11 PROFESSIONAL CONDUCT THAT SHOULD BE RESTRAINED?

12 MR. VAN SICKLE: WELL, SEVERAL REASONS.

13 ONE, AS THE COURT HAS RECOGNIZED, IF HE
14 REPRESENTS THE AZNARANS IN FEDERAL COURT, THEN THE
15 APPROPRIATE REMEDY IS FOR THEM TO GO IN AND DISQUALIFY THEM
16 -- MR. YANNY.

17 NOW, DISQUALIFICATION IS NOT PUNITIVE IN
18 NATURE, SO, THEREFORE, WHEN YOU'RE INVOLVED IN A
19 DISQUALIFICATION, THE BURDEN'S A LITTLE BIT DIFFERENT. THE
20 PRESUMPTIONS ARE DIFFERENT. THE PRESUMPTION OF, SAY,
21 DISCLOSING SECRETS, VARIOUS PRESUMPTIONS WORK IN THEIR
22 FAVOR IN A DISQUALIFICATION MOTION.

23 BUT THOSE SAME PRESUMPTIONS DO NOT OPERATE IN
24 A PRELIMINARY INJUNCTION, AND THAT MAKES SENSE. BECAUSE
25 WHEN YOU'RE GOING INTO COURT AND ASKING FOR
26 DISQUALIFICATION ON A CASE-BY-CASE BASIS, YOU'RE GOING THE
27 WAY YOU'RE SUPPOSED TO GO.

28 YOU COME INTO COURT ON A PRELIMINARY

1 CETERA, NOTHING TO DO WITH ADVERSE REPRESENTATION OF
2 SCIENTOLOGY. THEY DO NOT HAVE THE RIGHT --

3 THE COURT: MR. YANNY, I STATED THAT THE TRO WAS TOO
4 BROAD IN THAT IT IS THE COURT'S INTENT NOT TO PRECLUDE
5 ASSOCIATION, DISCUSSION, AND SO FORTH, AND I THOUGHT THAT
6 WOULD SEND THE MESSAGE THAT IF THERE WAS AN ORDER, IT WOULD
7 BE A LOT MORE NARROW THAN THE TRO THAT WAS SIGNED.

8 MR. YANNY: YOUR HONOR, BUT BASED ON THE STRENGTH OF
9 WHAT THEY'VE SHOWN; NOTHING?

10 AND WHAT YOU'RE GOING TO DO BY GIVING THESE,
11 THE MOST LITIGIOUS PEOPLE IN THE CITY OF LOS ANGELES, MAYBE
12 THE STATE OF CALIFORNIA, AND MAYBE THE UNITED STATES,
13 YOU'RE GOING TO GIVE THEM AN ORDER BY WHICH THEY ARE THEN
14 GOING TO HARASS EVERY ONE OF MY EMPLOYEES LIKE YOU SAW THEM
15 DO BEFORE, EVERY ONE OF MY CLIENTS, LIKE YOU SAW THEM DO
16 BEFORE.

17 OKAY. AND THAT, BASED ON THE STRENGTH OF
18 WHAT THEY SHOWED, YOU KNOW, IT IS -- I HATE TO SAY THIS --
19 THAT IS INEQUITABLE -- THAT IS INEQUITABLE -- AND ALL OF
20 THIS BECAUSE I DID ONE THING; I HIRED GERRY ARMSTRONG AS A
21 PARALEGAL TO HELP ME ON THE AZNARAN CASE?

22 THE COURT: NO. ALL BECAUSE --

23 MR. YANNY: I TOLD HIM ABOUT COPYRIGHT NOTICES AND I
24 MADE AN APPEARANCE IN A FEDERAL CASE AND THAT THE JUDGE
25 DISQUALIFIED ME.

26 I DON'T THINK AN ORDER IS APPROPRIATE. THIS
27 CASE SHOULD HAVE BEEN THROWN OUT WHEN YOU SAW THE
28 COMPLAINT.

EXHIBIT B

Declaration of Gerald Armstrong

I, Gerald Armstrong, declare:

1. I have been advised by attorney Joseph A. Yanny that he has been sued by one or more Scientology entities, hereinafter referred to as "the organization," for inducing me to breach a settlement agreement I entered into with the organization in December 1986. I am making this declaration to show that this allegation is in every respect untrue.

2. I received a telephone call from Mr. Yanny to my answering machine on or about July 10, 1991. He left a message which simply said, "I need your help." I

(2)

called him back at which time he reiterated his request for my help and explained that because of organization machinations (which have been detailed in other declarations by other parties), Rick and Vicki Azmaran, plaintiffs and counter-defendants against the organization had been induced to fire their attorney, Ford Greene, and that Mr. Yanny had come into the case to ensure they had legal representation. Mr. Yanny also expressed during this conversation some personal concerns, which will remain private and confidential

between Mr. Yonny and me.

3. I told Mr. Yonny at that time that I would help and that I would travel to Los Angeles on July 12. & I asked him for five hundred dollars to cover my expenses, and told him he could consider it as purchase of stock in the Gerald Armstrong Corporation (TGAC). I also counseled Mr. Yonny at that time regarding his personal spiritual difficulties. (TGAC is a California Corporation in which, although it bears my name and I am its active officer,

(4)
I own no stock.)

4. I did travel to Los Angeles, did stay at Mr. Yanny's home, did work in his office on July 15 and 16, and did write and execute a declaration on July 16 giving my knowledge of the effect of the December 1986 group settlement agreements on the ability of the Azraone and other individuals victimized by the organization to obtain proper legal representation. I also discussed with Mr. Yanny literary and

⑥
when I was attacked
or threatened by the
organization in violation
of the settlement agreements.
These declarations make it
very clear that I consider
I have a right to counter
the organization's attacks,
to speak out against
its policy of "fair game"
and assaults on the
basic rights of individuals,
and to assist those
whom I would depend
on for protection against
the organization's legal
and extra-legal might
and antisocial acts.
It is therefore the org-

(5.)

artistic matters, areas of the law, as a copyright and trademark attorney, in which he has expertise. The majority of my time with Mr. Yonny concerned spiritual matters, an area in which I have expertise.

5. I refer this Court to my declarations of March 15, 1990 and December 25, 1990, and the exhibits thereto. These declarations detail the circumstances at the time of the December 1986 settlement and the many instances subsequently

(7.)

organization itself which induced me, if I was induced by any human agency to do anything which the organization might consider a breach of the settlement agreement.

6. But more than a desire to protect myself or right the organization's unjust acts towards me, however, I helped Mr. Yanny for the simple reason that he asked. I will do the same for anyone. The organization is aware of this fact because it received my letter of

(8)

June 21, 1991, a copy of which will accompany this declaration as Exhibit 1, and acknowledged the letter's receipt in their letter of July 3, 1991, a copy of which will accompany this declaration as Exhibit 2. It is not only the right of all men to respond to requests for help, it is our essence. If I was induced, therefore, to help Mr. Yanny, or anyone else, it was our Creator who induced me. Mr. Yanny, unlike the organization, was not aware of my dedication to helping my fellow humans, did not know of my June

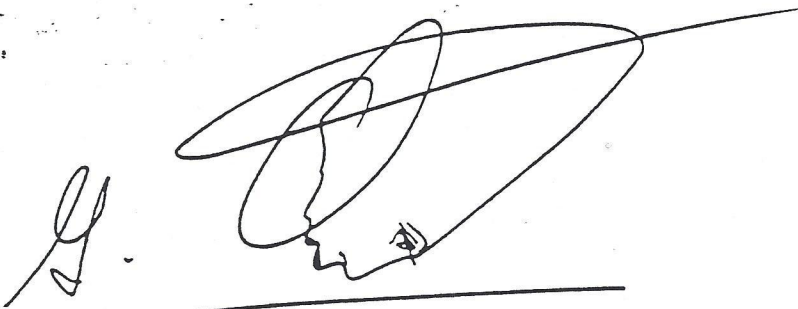
21, 1991 letter, so acted
in innocence. (9)

7. I do not ask for
or expect a fee for my
help, although generally
I do not refuse whatever
is given me. I know
that I am sustained
completely by the Great
Coordinator Who sends to
me whenever He wants me
to help. I therefore can-
not be induced by money
or whatever anyone can
offer me.

I declare under the
pain and penalty of perjury
under the laws of the
State of California that
the foregoing is true and

correct.

Executed this 19th day
of July at New York, New
York.



Gerald Armstrong

DECLARATION OF THORN SMITH

I, Thorn Smith, hereby declare:

1. I am over the age of eighteen. I am a licensed attorney in the state of California. I have personal knowledge of the facts set forth below, except as stated on information and belief, and as to those I believe them to be true. If called upon to do so, I could and would competently testify thereto.

2. On Saturday, August 3, 1991, I conducted a surveillance at the law offices of Ford Greene, the attorney for the plaintiffs in a federal case pending in Los Angeles, Aznaran v. Church of Scientology of California ----- Case No. 88-1786 JMI (Ex). The address of his office is 711 Sir Francis Drake Boulevard, San Anselmo, California, which is a storefront in a two-story building.

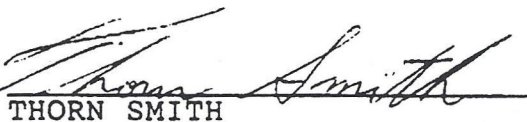
3. During the course of that morning, I observed a white male, who was driving a grey Cadillac, having a California tag reading "I MENSA," outside those law offices.

4. The man I saw took various boxes from the trunk of his car and brought them into Ford Greene's building, along with another unidentified white male.

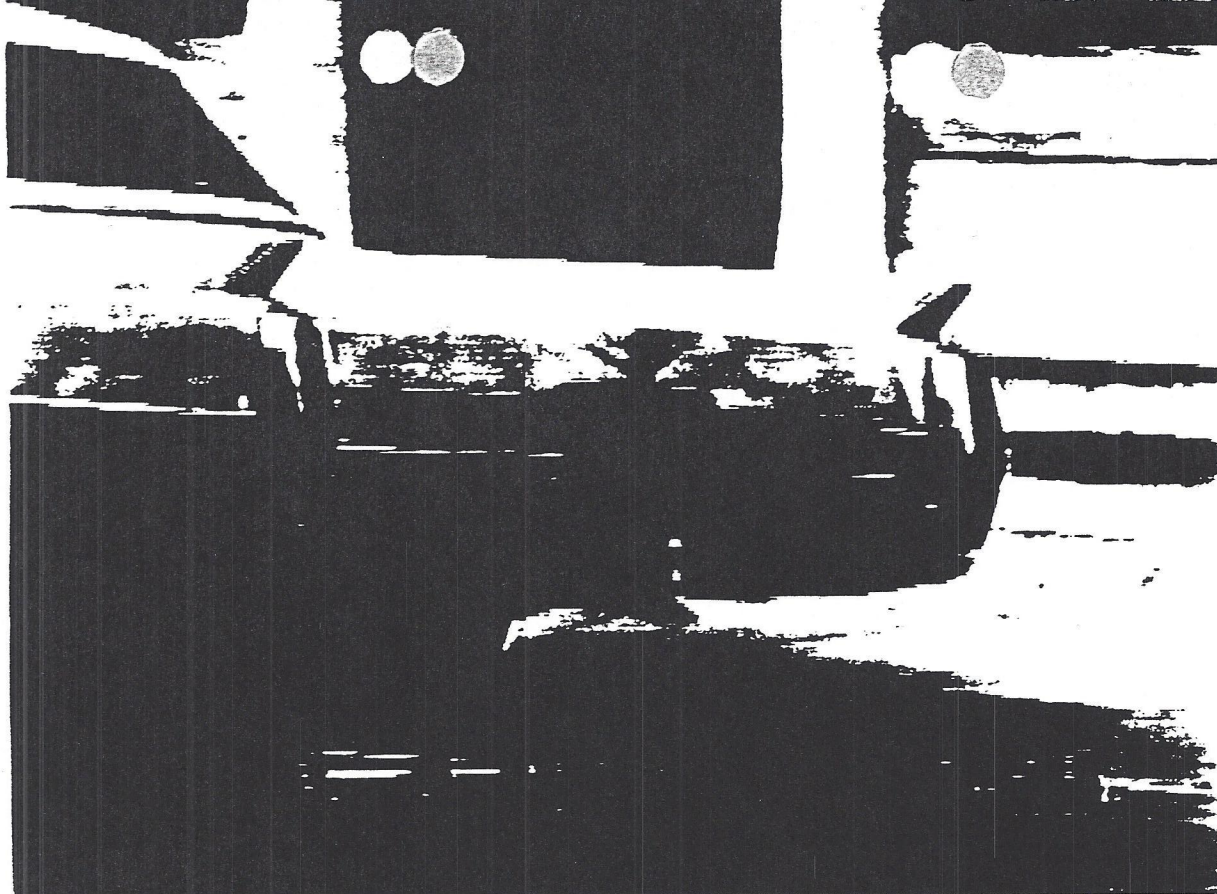
5. I have subsequently learned from counsel for the defendants in the Aznaran case that their client identified the owner of the grey Cadillac as being John Koresko.

1 I declare under penalty of perjury that the
2 foregoing is true and correct.

3 Executed at San Francisco, California the 26th day
4 of August 1991.

5 
6 THORN SMITH







DECLARATION OF EDWARD AUSTIN

I, Edward Austin, hereby declare:

1. I am over the age of eighteen. I am a licensed private investigator in northern California. I have personal knowledge of the facts set forth below, except as stated on information and belief, and as to those I believe them to be true. If called upon to do so, I could and would competently testify thereto.

2. On Saturday, August 3, 1991, I conducted a surveillance at the law offices of Ford Greene, the attorney for the plaintiffs in a federal case pending in Los Angeles, Aznaran v. Church of Scientology of California, Case No. CV 88-1786 JMI (Ex). The address of his office is 711 Sir Francis Drake Boulevard, San Anselmo, California, which is a storefront in a two-story building.

3. During the course of that day, I observed an old, grey Cadillac, having a California tag reading "I MENSA," pull up outside of the office at 5:14 p.m. I saw a dark haired man get out of the car and go into Ford Greene's office. The Cadillac remained parked outside Mr. Greene's office until 10:25 p.m.

4. I have subsequently been informed by counsel for the defendants in the Aznaran litigation that their client identified the grey Cadillac as belonging to John Koresko.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Marin County, California the 26 day of August 1991.


EDWARD AUSTIN

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On August 26, 1991, I caused to be served the foregoing document described as SUPPLEMENTAL MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS COMPLAINT WITH PREJUDICE; DECLARATIONS OF SAM BROWN, THORN SMITH, EDWARD AUSTIN, LYNN R. FARNY AND LAURIE J. BARTILSON on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

If hand service is indicated on the above list, I caused the above-referenced paper to be served by hand.

Executed on August 26, 1991 at Hollywood, California.

A handwritten signature in dark ink, appearing to read 'Ford Greene', is written over a horizontal line.

274
8/26/91
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Attorneys for Defendant
AUTHOR SERVICES, INC.

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 VICKI J. AZNARAN and
RICHARD N. AZNARAN,

23 Plaintiffs,

24 vs.

25 CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

26 Defendants.

27 AND RELATED COUNTERCLAIMS.
28

) CASE No. CV 88-1786 JMI(Ex)

)
)
) REPLY IN SUPPORT OF DEFENDANTS'
) MOTION FOR SUMMARY JUDGMENT
) BASED ON THE STATUTE OF
) LIMITATIONS

) DATE: September 9, 1991

) TIME: 10:00 a.m.

) COURTROOM: Hon. James M. Ideman

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PRELIMINARY STATEMENT

It is time for the Court to put an end to the expensive, time-consuming force that this case is.

Defendants have filed a motion for summary judgment which sets forth ample evidence that everyone of plaintiffs Vicki and Richard Aznaran's alleged claims for relief is barred by the applicable statute of limitations. In response, the Aznarans concede that Vicki's false imprisonment claim is time-barred because she left the condition claimed to have been the wrongful confinement on March 31, 1987, more than one year before this suit was filed. [Plaintiffs' Opposition at 16 (hereinafter "Pl. Opp."); see Defendants' Memorandum at 9-13 (hereinafter "Def. Mem."); Defendants' Uncontroverted Fact No. 4]. The Aznarans do not even attempt to controvert the undisputed facts that demonstrate that the events that give rise to their other claims occurred well outside the limitations period [Def. Mem. at 16-19 and Uncontroverted Facts Nos. 5-7 (intentional and negligent infliction of emotional distress); Def. Mem. at 21-24 and Uncontroverted Facts Nos 7-9 (loss of consortium); Def. Mem at 27-35 and Uncontroverted Facts Nos. 10, 12-17 (fraud); Def. Mem. at 37-38 and Uncontroverted Fact No. 6 (constructive fraud); Def. Mem. at 44-46 and Uncontroverted Fact No. 10 (breach of contract); Def. Mem. at 44-46 and Uncontroverted Facts Nos. 10, 22 (restitution); Def. Mem. at 46-49 and Uncontroverted Fact No. 23 (invasion of privacy); Def. Mem. at 49-50 and Uncontroverted Fact No. 24 (statutory minimum wage claim).]

With all of that established and uncontroverted, summary

1

1 judgment on all of the Aznarans' claims is mandated, and this 3
2 1/2 year drain on everyone's resources will reach its proper
3 conclusion: judgment for all defendants on all counts.

4 Confronted with that insurmountable hurdle, the Aznarans,
5 their present counsel, and Joseph A. Yanny, defendants' former
6 counsel and the Aznarans' de facto counsel, responded
7 predictably. They once again change and contradict their earlier
8 sworn testimony to "support" never-before alleged legal theories
9 conjured up to meet the exigencies of the moment.

10 On February 20, 1991, defendants filed a motion asking the
11 Court to order the Aznarans and their counsel not to indulge
12 further in their habitual changing of their sworn versions of the
13 facts and the legal theories of their case. That motion was
14 necessitated by the Aznarans continuously supplying declarations
15 that were at odds with their earlier sworn testimony and because
16 their counsel changed their legal theories each time he was
17 called upon to articulate them, to the point that even their
18 legal theories were in conflict. That motion remains under
19 submission. Now, faced with meritorious motions for summary
20 judgment, the Aznarans have once again changed the facts,
21 contradicted their earlier testimony, created an entirely new
22 story concerning their case and again redefined their theories.

23 The Aznarans' and their counsel's repositioning of the facts
24 and the legal theories they espouse is hardly surprising for two
25 reasons. First, as set forth in defendants' February 20, 1991
26 motion papers on this point, they have done so throughout this
27 entire litigation. Second, and even more telling, the utter
28 disregard of the truth that the Aznarans have made the trademark

1 of their litigation effort, bears the unmistakable signature of
2 Gerald Armstrong, whose theory of litigating against Churches of
3 Scientology, as captured on videotape in 1984, is not to worry
4 about what the facts really are, but instead to choose a state of
5 "facts" that should survive a challenge by the Church and "just
6 allege it." [Declaration of Earle C. Cooley, Ex. F].

7 It is clear that Armstrong's influence and philosophy
8 permeates the Aznarans' oppositions. Armstrong was in the office
9 of the Aznarans' counsel, Ford Greene, for most of the week in
10 which the Aznarans' opposition were created. [Ex. E, Declaration
11 of Sam Brown, ¶ 3]. On August 19, 1991, Armstrong admitted to
12 one of defendants' counsel that he was at Greene's office
13 "helping out." [Ex. B, Declaration of Laurie J. Bartilson.]
14 Even more disturbingly to a Court that disqualified Barry Van
15 Sickles as counsel for the Aznarans because his presence
16 represented an improper "extension of Yanny" into these
17 proceedings and disqualified Yanny himself because his presence
18 was "highly prejudicial" to defendants, Armstrong is a paralegal
19 who was hired by Yanny to work on the Aznaran case [Transcript of
20 Proceedings, August 6, 1991, at 25, Ex. 1 to Ex. B, Declaration
21 of Laurie Bartilson] and thus had no business being anywhere near
22 the opposition because: (1) Yanny was disqualified from
23 representing the Aznarans here; and (2) Yanny has been
24 preliminarily enjoined from directly or indirectly representing
25 the Aznarans [Reporter's Transcript of August 6, 1991, at 34].

26 In essence, the facts demonstrate and the Aznarans admit
27 that they long knew of their purported injuries, but that the
28 limitations period did not begin to run until they had come to

1 the conclusion that the injuries they had allegedly suffered were
2 the result of "brainwashing." Their opposition is the time to
3 take that "brainwashing" theory -- the brainchild of an "expert"
4 who has been found by federal courts from coast to coast to be
5 unqualified to testify regarding that discredited theory -- and
6 "just allege it."

7 Plaintiffs' assertion that they were "brainwashed" and so
8 incapable of discovering their own claims is ludicrous on its
9 face. The Aznarans are asking this Court to believe that Vicki
10 Aznaran, who held one of the highest positions in Scientology's
11 ecclesiastical hierarchy, was effectively "brainwashed" by her
12 subordinates and employees. Just as it would be an impossibility
13 for a court to entertain an action by a former Cardinal based on
14 a claim that he had been "brainwashed" by his priests and nuns
15 into devoting his life to Catholicism, and so did not discover
16 until long after renouncing his religion that he had been damaged
17 by his religious training and experiences, so must the Aznarans'
18 claims be barred here.

19 As demonstrated in the declarations of Mark C. Rathbun (Ex.
20 A) and Jesse Prince (Ex. H), the Aznarans were quite aware of
21 damages claims against the Church, identical to their own, 10
22 years ago. Vicki Aznaran acknowledges as much in the video-taped
23 speech given in October, 1984 appended to the declaration of Mark
24 Rathbun.

25 The Aznaran declarations are a fraud on the Court.

26 The entire thrust of the Aznarans' disingenuous and tainted
27 opposition is an attempt to so prejudice and so inflame the Court
28 against defendants that it will escape the Court's notice that

1 all the Aznarans' purported claims are incontrovertibly time-
2 barred. They resort to unsubstantiated, scurrilous allegations,
3 the falsity of which are exposed by the Aznarans' own deposition
4 testimony.¹ [Ex. A, Declaration of Mark C. Rathbun and exhibits
5 thereto]. They try to avoid the issues by lengthy and
6 melodramatically false descriptions of the RPF, and of their stay
7 in a Hemet, California Best Western Motel. [Id.]. Vicki Aznaran
8 now claims she "escaped" from the RPF. Earlier, she testified in
9 her deposition she never "escaped" from the RPF, but rather that
10 she merely left. Vicki Aznaran cannot create an issue of fact
11 with herself. Her current tale is a series of desperate lies to
12 avoid the consequences of her earlier testimony as corroborated
13 by the people who left with her and those who witnessed and
14 participated in her voluntary departure from the Church. [Ex. G,
15 Declaration of Lynn R. Farny; Ex. H, Declaration of Jesse Prince;
16 Ex. I, Declaration of David Bush; Ex. A, Declaration of Mark
17 Rathbun; Ex. C, Declaration of Lawrence E. Heller and exhibits.²

18 ¹ The new factual assertions are made by the Aznarans in a pair of
19 "cookie-cutter" declarations. These declarations are so nearly
20 identical that Richard Aznaran refers to his "husband" [Dec. of
21 Richard Aznaran, ¶ 13] and his "escape from the RPF" in 1987.
22 [Id., ¶ 2]. These declarations, like many filed by the Aznarans,
23 are utterly suspect in both form and content. Not only do the new
24 declarations contain contradictory statements which bolster their
25 new legal theories, their format also indicates that the Aznarans
26 are simply willing to swear to anything which their attorneys
27 manufacture for them. The signature pages affixed to both
28 declarations are either completely devoid of text or nearly so and
are distinctly different in typestyle from the remaining portions
of the declarations. They are not printed on numbered paper, nor
are they on Greene's printed paper. It is plain that pre-signed
attestations are merely dated and slapped on to whatever version of
the facts the Aznarans are espousing at any particular moment.

² Defendants expect that the Court is as tired as they are of the
ever-changing stories of plaintiffs, and of the ever-increasing
(continued...)

1 In the end, the Aznarans' lies are exposed by their own
2 admissions, and their opposition stands utterly without merit.
3 There is no dispute that the Aznarans' claims are time-barred and
4 the only supposedly "controverted" facts are those which arise
5 from the fact that the Aznarans' sworn statements now conflict
6 with the Aznarans' sworn statements made earlier. Summary
7 judgment for defendants, therefore, is compelled.

8 ARGUMENT

9 I. PLAINTIFFS' VIOLATION OF COURT ORDERS AND COURT RULES

10 MANDATES THE GRANTING OF THIS MOTION FOR SUMMARY JUDGMENT

11 In its Order of August 9, 1991, this Court stated "Counsel
12 are hereby reminded that the 35-page limit, excluding indices and
13 exhibits, mandated by the Local Rules apply to all submissions."
14 See Local Rule 3.10. Nevertheless, plaintiffs, in utter
15 disregard of this Court's order, have filed an Opposition
16 Memorandum of 37 pages and something called "Plaintiffs' Appendix
17 of Facts in Support of Opposition to Motions For Summary
18 Judgment" of 53 pages. Plaintiffs have incorporated by reference
19 this Appendix into their one-paragraph "Statement of Facts." The
20 total length of these two documents is 90 pages, almost triple
21 the page limit set by this Court.

22 _____
23 ²(...continued)

24 venom with which they attack their former religion. The
25 declarations found in defendants' Exhibits in Support of Replies to
26 Motions for Summary Judgment on First Amendment and Statute of
27 Limitations grounds provide the truth of these matters, supported
28 by photographs and videotapes of the people and places claimed. The
Court is urged to review these declarations and their exhibits
carefully, if only to discover for itself that the "camp in the
desert," was a pleasant ranch located in the heart of agricultural
country, surrounded by green hills and eucalyptus trees. [Ex. A,
Declaration of Mark Rathbun, Ex. 1 - 3].

1 Local Rule 3.10.1 specifically states that "[a]ppendices
2 shall not include any matters which properly belong in the body
3 of the memorandum of points and authorities or pre-trial or post-
4 trial brief" (emphasis added). It is beyond dispute that a
5 Statement of Facts belongs in a memorandum or brief, not in a
6 separate unsworn appendix. Obviously, the only reason plaintiffs
7 filed this separate appendix is to attempt to get around Local
8 Rule 3.10 and this Court's August 9 Order.

9 Because of this clear violation of this Court's order and of
10 Local Rules 3.10, 3.10.1, this Court should strike and refuse to
11 consider plaintiffs' 53-page Appendix.³

12 Plaintiffs' opposition papers also fail to contain a
13 Separate Statement of Genuine Issues, as required by Rule 7.14.2
14 of the Local Rules of this Court.⁴ When the party opposing
15 summary judgment fails to include such a statement, the facts of
16 the movant set forth in the Statement of Uncontroverted Facts are
17 deemed admitted:

18 _____
19 ³ If the Court does review the plaintiffs' Appendix, the Court
20 should note that the plaintiffs repeatedly acknowledge that they
21 were fully aware of their alleged injuries as early as 1974, and
22 that they remained fully cognizant of their alleged injuries as
they allegedly occurred throughout their tenure with the Church.
Furthermore, the declarations filed herewith carefully show how
many of the allegations contradict the Aznarans' own sworn
testimony.

23 ⁴ Late on Friday, August 23, 1991, when this memorandum was
24 finished except for preparation of indices, defendants did receive
25 a document by telecopier which was captioned an Ex Parte
26 Application to File Statements of Genuine Issues, though defendants
27 have not been served. As defendants had already completed their
28 reply in the absence of any Statement of Genuine Issues, and as the
Statement has not been accepted for filing nor served, this
Memorandum does not address the eleventh-hour Statement and
responds only to those documents timely filed with the Court in
opposition to the present motion.

1 In determining any motion for summary judgment, the
2 Court will assume that the material facts as claimed
3 and adequately supported by the moving party are
4 admitted to exist without controversy except to the
5 extent that such material facts are (a) included in the
6 "Statement of Genuine Issues" and (b) controverted by
7 declaration of other written evidence filed in
8 opposition to the motion.

9 Rule 7.14.3, Local Rules of the United States District Court for
10 the Central District of California (emphasis added).

11 The courts have been firm in requiring strict compliance
12 with Local Rule 7.14.3 and its counterparts in other courts. In
13 Nilsson, Robbins, Dalgarn, Berliner, Carson & Wurst v. Louisiana
14 Hydrolec, 854 F.2d 1538 (9th Cir. 1988), the Ninth Circuit
15 affirmed the district court's grant of summary judgment where the
16 movant adequately supported its motion with declarations and
17 deposition excerpts, and the opposing party did not support the
18 opposition with specific facts. The court held that Local Rule
19 7.14.3 "serves as adequate notice to non-moving parties that if a
20 genuine issue exists for trial, they must identify that issue and
21 support it with evidentiary materials, without the assistance of
22 the district court judge." 854 F.2d at 1545 (emphasis
23 added). Nilsson makes clear that submission of a Statement of
24 Genuine Issues is mandatory: it is not the trial judge's burden
25 to sift through lengthy deposition testimony, memoranda, or other
26 documents to determine what facts the plaintiffs believes are in
27 dispute. Rather, the party opposing summary judgment must submit
28 "a concise 'Statement of Genuine Issues' as to which it contends

1 that there exists a genuine issue necessary to be litigated."
2 Laidman v. Tivoli Industries, Inc., No. CV 89-4505-DWW, 1990 U.S.
3 Dist. Lexis 18477 (C.D. Cal. July 17, 1990); see also Von
4 Milbacher v. Teachers Insurance and Annuity Ass'n., Civ. No. 88-
5 1033, 1988 U.S. Dist. Lexis 11742 (D.N.J. Oct. 28, 1988) (holding
6 that a separate factual statement similar to a factual summary in
7 a brief fails to meet the requirement of a concise separate
8 statement of fact).

9 Where, as here, the movants have met their burden of showing
10 entitlement to summary judgment, and the non-movant has not
11 presented opposing facts in the required form, summary judgment
12 must be granted. This was the outcome in Nilsson and Laidman
13 under Local Rule 7.14.3, as well as in many cases in other courts
14 with similar local rules. See, e.g., Cawley v. City of Port
15 Jervis, 753 F.Supp. 128 (S.D.N.Y. 1990); Knowles v. Postmaster
16 General, 656 F.Supp. 593 (D.Conn. 1987); Alvarado-Morales v.
17 Digital Equipment Corp., 669 F.Supp. 1173 (D.P.R. 1987), aff'd
18 843 F.2d 613 (1st Cir. 1988); Furst v. New York City Transit
19 Authority, 631 F.Supp. 1331 (E.D.N.Y. 1986).

20 II. PLAINTIFFS' CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS

21 A. The Claim For False Imprisonment Must Be Dismissed

22 Setting aside the Aznarans' proclivity for self-
23 contradiction and their consuming devotion to smearing defendants
24 rather than responding to defendants' factual showing and
25 arguments, the most notable feature of the Aznarans' opposition
26 regarding the false imprisonment claim is their complete failure
27 to refute defendants' showing that the claim, based on Ms.
28 Aznaran's tenure on the RPF from March 3 to March 31, 1987, is

1 barred by the one-year statute of limitations. First, plaintiffs
2 explicitly concede the only relevant fact -- Ms. Aznaran left the
3 RPF on March 31, 1987, over one year before this lawsuit was
4 filed. Plaintiffs' Opposition at 16 (hereinafter "Pl. Opp.");
5 see Defendants' Memorandum at 9-13 (hereinafter "Def. Mem.");
6 Defendants' Uncontroverted Fact No. 4.⁵ Second, they make no
7 legal argument that Ms. Aznaran's claim based on the RPF,
8 standing alone, falls within the limitations period. Thus, the
9 false imprisonment claim based on the RPF must be dismissed.

10 Instead, plaintiffs assert for the first time in this case,
11 less than two months before trial, that Ms. Aznaran's false
12 imprisonment claim is based on nine days that she and her husband
13 spent in a publicly accessible Best Western Hotel in Hemet,
14 California, during which time she and her husband drove to Los
15 Angeles in their own truck, went shopping, walked around town,
16 ate at public restaurants, went to a public laundromat, engaged
17 in sexual activities with each other, and had a telephone in
18 their private motel room. [V.A. Dep. at 809-21, 905; R.A. Dep.
19 II at 68-74; Def. Ex G (Exs. 11-15)]. This belated claim must not
20 be considered by this Court and is frivolous as a matter of law.

21
22 ⁵ Plaintiffs attempt to distract this Court from the obvious fact
23 that they missed the statutory deadline for filing their lawsuit by
24 focusing on irrelevant allegations concerning the RPF prior to
25 April 1, which in any event, are directly contradicted by Ms.
26 Aznaran's own testimony. Indeed, the Aznarans and their counsel
27 are so busy changing their stories that they directly contradict
28 each other: Ms. Aznaran states that on March 31, 1987, when Jesse
Prince and David Bush "returned [in a rental car,] I ran down the
hill with my guard, Chris Byrnes, chasing me." V.A. Dec., Aug. 16,
1991, ¶ 4 (emphasis added). By contrast, her attorney states:
"Jesse came back to Happy Valley in a car, picked up Vicki, who was
still laying under the tree and left. V.A. Dep. at 734, 740-41."
[Pl. Opp. at 13] (emphasis added).

1 As plaintiffs explicitly concede, "the imprisonment at Hemet
2 was not expressly pleaded," in their complaint. Pl. Opp. at 16
3 n.3; see Complaint, ¶ 30 (false imprisonment allegation
4 explicitly limited to Ms. Aznaran's tenure at Happy Valley).
5 This Court permitted the plaintiffs until August 18, 1989 to file
6 an amended complaint, long after much discovery was completed,
7 including production of documentary evidence proving that Ms.
8 Aznaran had left the RPF on March 31, 1987. See Def. Exhibit D
9 [Ex. 40 to V.A. Dep.]; Def. Exhibit G. Plaintiffs chose not to
10 amend their complaint, and therefore never alleged that the
11 period in the motel in Hemet constituted false imprisonment.
12 Based on the absence of any such allegation, the Aznarans must be
13 precluded from raising this claim for the first time now.

14 The Aznarans further argue that they should be entitled to
15 rely on their allegations in the July 7, 1989 Joint Status
16 Conference Report of Counsel. Pl. Opp. at 16 n.3. Defendants
17 agree. In that Report, plaintiffs stated the false imprisonment
18 claim in its entirety as follows:

19 As part of defendants' program of coercive persuasion,
20 and as an additional technique thereof, plaintiff Vicki
21 Aznaran was falsely imprisoned in something called the
22 Rehabilitation Project Force wherein she was constantly
23 guarded, compelled to eat substandard food, to run
24 around a telephone pole literally for days on end,
25 locked up at night and was subjected to hours of
26 indoctrination daily.

27 Status Report, at 5-6 (emphasis added). As the Court can see,
28 there is not even a hint that the false imprisonment claim

1 includes the Aznarans' stay at the Best Western Motel.

2 Moreover, even if it were not time-barred, a false
3 imprisonment claim based on the Aznaran's alleged experiences in
4 the RPF would not be justiciable. See, Motion for Summary
5 Judgment Pursuant to First Amendment, pp. 14-25; 32-34. The RPF
6 is based solely on the writings of L. Ron Hubbard, and is
7 considered by the members of the Scientology religious order to
8 whom those writings apply to be a mandatory and essential element
9 of their religious beliefs and practice. [Flinn Dec., Exhibit to
10 First Amendment Motion, ¶ 24; Ex. G, Declaration of Lynn R.
11 Farny; Ex. H, Declaration of Jesse Prince; Ex. I, Declaration of
12 David Bush]. The appropriateness of a hierarchical church's non-
13 violent disciplinary actions taken against a member has
14 consistently been held to be beyond the cognizance of civil
15 courts. Indeed, the courts have been particularly deferential
16 when questions of church discipline are at issue. See, e.g.,
17 Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696,
18 717 (1976) ("questions of church discipline and the composition
19 of the church hierarchy are at the core of ecclesiastical
20 concern"); Higgins v. Maher, 210 Cal.App.3d 1168, 1170, 258
21 Cal.Rptr. 757, 757-58 (1989) (holding disciplinary actions
22 against a Roman Catholic priest, including removal from his
23 position, incarceration in a psychiatric hospital, and treatment
24 which included psychiatric drugs and electroshock, were
25 nonjusticiable.)

26 Plaintiffs also rely on the "deposition and discovery
27 procedure" as a basis for their newly invented claim. Pl. Opp.
28 at 16 n.3. Yet this Court could painstakingly scrutinize every

1 word in the record without finding a single hint that plaintiffs
2 intended to assert this claim. Certainly defendants could not
3 have been expected to conclude on their own that the Aznarans
4 would conceivably assert that a stay at a public motel during
5 which time the Aznarans moved about freely, travelled to Los
6 Angeles and to other public facilities and enjoyed the use of a
7 private room with a telephone, constituted false imprisonment.

8 The obvious truth is that when plaintiffs and their counsel
9 finally realized that the indisputable documentary evidence
10 proved that Ms. Aznaran left the RPF on March 31, and that her
11 false imprisonment claim was dispositively barred by the statute
12 of limitations, they simply invented a new claim and created new
13 "facts" to support it. This Court must not countenance such
14 abuse of the integrity of its processes by permitting a brand new
15 claim based wholly on self-contradicted facts to be asserted only
16 a few weeks before trial.

17 In any event, the claim of false imprisonment based on the
18 period from March 31 to April 9, 1987 is completely meritless as
19 a matter of law. Defendants submit that no court in the history
20 of this country has held that a nine-day stay in a publicly
21 accessible motel, with a telephone used to make numerous long-
22 distance calls, including to Ms. Aznaran's sister, and which
23 period included a drive in their own pick-up truck to Los
24 Angeles, eating out in public restaurants, taking walks on the
25 public streets, shopping in stores open to the general public,
26 and going to a public laundromat, constitutes false imprisonment.

27 It is undisputed that the Aznarans had substantial periods
28 of time alone in their motel room and that they walked around

1 town and went to stores and restaurants by themselves. See V.A.
2 Dep. at 817-21.⁶ Indeed, the Aznarans frequently left their
3 hotel room, and were late for several appointments with Mr.
4 Rathbun during this time period, saying that they had been out to
5 restaurants, or out shopping. [Ex. B, Declaration of Mark
6 Rathbun.] Once they drove their truck to Los Angeles, breaking a
7 meeting with Mr. Rathbun completely. Id. No one prevented the
8 Aznarans from using the telephone in their room to call the
9 police, the FBI, the media, the motel manager, their Congressman
10 or other local, state or federal officials. No one prevented the
11 Aznarans when they were in Los Angeles from going to the police
12 or the FBI. No one prevented the Aznarans from driving their
13 truck to the Hemet Police Station, blocks from their motel.

14 The Aznarans' allegation that they feared unspecified
15 consequences in the future if they left the motel in Hemet does
16 not constitute false imprisonment as a matter of law, and
17 plaintiffs have not cited a single case that even suggests the
18 contrary. As plaintiffs concede, the tort of false imprisonment
19 requires the "nonconsensual, intentional confinement of a person,
20 without lawful privilege, for an appreciable length of time,
21 however short." Molko v. Holy Spirit Association, 46 Cal.3d 1092,
22 1123, 252 Cal.Rptr. 122, 139 (1988) (emphasis added), cert.
23 denied, 490 U.S. 1084 (1989) (internal quotations and citations
24 omitted); see Pl. Opp. at 6. The confinement must be complete,
25 and if there is a known reasonable means of escape, there can be

26 ⁶ Ms. Aznaran's testimony is a far cry from her counsel's shrill
27 and false assertions that the Aznarans were guarded 24 hours a day
28 and were ordered to stay in the motel unless they received
permission to leave. Pl. Opp. at 11, 15-16.

1 no false imprisonment. See Restatement of Torts (Second),
2 section 36, at 54-55 (1965) (hereinafter "Rest."). Because the
3 Aznarans could have walked away, driven away, or called the
4 police, the claim that they were confined is frivolous.

5 This case is virtually indistinguishable from Snyder v.
6 Evangelical Orthodox Church, 216 Cal.App.3d 297, 264 Cal.Rptr.
7 640 (1989). In Snyder, one plaintiff, Roberson, a Bishop of the
8 Church, confessed to his superior that he was having an
9 extramarital affair with Snyder. The superior ordered Roberson
10 to spend a week in a motel without outside contact, including his
11 family, or his adulterous relationship would be exposed. The
12 court rejected his claim of false imprisonment based on his
13 submission to the threats and "blackmail" to reveal his
14 confidences, where Roberson spoke to Snyder and his daughter;
15 "went on a drive with both women; left the motel and took a walk;
16 was visited in the motel by Snyder; [and] went out to dinner with
17 Snyder ..." Id. at 304, 264 Cal.Rptr. at 643. Just as there was
18 no false imprisonment in the motel in Snyder, there was none at
19 the Hemet Best Western Motel that served as home base for even
20 broader freedom of movement and activity for the Aznarans.

21 The Aznarans are correct that there can be false
22 imprisonment through severe duress, but they persist in ignoring
23 the fact that there still must be complete confinement. See
24 Rest., section 40A, at 61. Thus, even assuming the Aznarans were
25 subjected to duress during their stay at the Best Western Motel,
26 it is uncontroverted that they were not completely confined.

27 Each case cited by plaintiffs for the proposition that
28 duress or fear of threats may constitute false imprisonment

1 involved extraordinarily threatening consequences and extreme
2 confinement. See People v. Riddle, 189 Cal.App.3d 222, 228, 234
3 Cal.Rptr. 369, 373 (1987) (defendant pointed gun at mother and
4 ordered both parents out of the trailer, i.e., to go where they
5 did not wish to go; People v. Martinez, 150 Cal.App.3d 579, 586,
6 198 Cal.Rptr. 565, 569 (1984) (victim repeatedly raped by
7 defendant, who threatened her with screwdriver and threatened to
8 shoot her husband if she resisted); Parnell v. Superior Court,
9 Alameda County, 119 Cal.App.3d 392, 409, 173 Cal.Rptr. 906, 916
10 (1981) (abduction of seven-year-old boy, held by defendant for
11 eight years, and subjected to repeated acts of sodomy); Shanafelt
12 v. Seaboard Finance Co., 108 Cal.App.2d 420, 422-23, 239 P.2d 42
13 (1951) (defendant blocks pregnant woman's only means of escape;
14 orders her to stay in the house until her furniture is seized).⁷
15 Plaintiffs' reliance on these cases to assert false imprisonment
16 in a Best Western Motel demonstrates the desperate and frivolous
17 nature of their claim.

18 Plaintiffs' assertions that there can be false imprisonment
19 by a private party within the confines of the area from Hemet to
20 Los Angeles is likewise frivolous. The sources upon which
21 plaintiffs rely referred exclusively to improper use of legal
22 process by government officials to restrain an individual within
23 a precise geographic area. See Rest., section 36, at 56 (comment

24
25 ⁷ The ancient case of Fotheringham v. Adams Express Co., 36 F. 252
26 (E.D.Mo. 1888), is wholly irrelevant to the facts here. In
27 Fotheringham, the plaintiff had no means of escape, as he was "at
28 all times subject to the control and direction" of defendant's
agents, and force was threatened against him if he attempted to
leave. This is a far cry from the Aznarans' sojourn at the Best
Western Motel.

1 b); Prosser and Keaton On Torts section 11 (5th ed. 1984); Allen
2 v. Fromme, 141 App.Div. 362, 126 N.Y.S. 520 (1910) (sole case
3 relied upon by Prosser; plaintiff released from prison upon
4 posting bond that confined him to "jail limits").

5 As plaintiffs concede that Ms. Aznaran voluntarily left the
6 RPF on March 31, 1987, and because she was not falsely imprisoned
7 after that time, or ever, the continuing tort doctrine or
8 "conspiracy" doctrines, upon which plaintiffs so heavily rely,
9 Pl. Opp. 16-21, is irrelevant and the claim must be dismissed.

10 B. The Claims for Intentional and Negligent⁸ Infliction of
11 Emotional Distress Must Be Dismissed⁹

12 In Plaintiffs' Memorandum in Opposition to Motion for
13 Summary Judgment, dated Dec. 7, 1990, at 54-57 (hereinafter "Pl.
14 Dec. 7 Mem."), the Aznarans alleged several specific acts causing
15 them emotional distress, in addition to their claim of
16
17

18 ⁸ Plaintiffs assert that their claim for negligent infliction of
19 emotional distress is based "on the principles set forth in Molko
20 and in Wollersheim v. Scientology." Pl. Opp. at 22. Molko did not
21 contain a claim for negligent infliction of emotional distress, see
22 Molko, supra, 46 Cal.3d at 1101, 252 Cal.Rptr. at 125, and the
23 court in Wollersheim rejected plaintiff's claim for negligent
24 infliction of emotional distress. Wollersheim, 212 Cal.App.3d 872,
900, 260 Cal.Rptr. 331, 349 pet. for cert. granted, vacated and
remanded on other grounds, ___ U.S. ___, 111 S.Ct. 1298 (1991).
Plaintiffs' express reliance on Wollersheim mandates dismissal of
the negligence claim. See also Nally v. Grace Community Church, 47
Cal.3d 278, 253 Cal.Rptr. 97 (1988) cert. denied, 490 U.S. 1007
(1989).

25 ⁹ Defendants do not understand what plaintiffs mean in asserting
26 that this Court has already determined the legal sufficiency of
27 their second through eleventh causes of action. Pl. Opp. at 21-22.
28 Obviously, this Court has not addressed the statute of limitations
issues, which defendants expressly reserved in their summary
judgment motion dated October 22, 1990. Any suggestion that the
Court has already ruled on the limitations issues is simply false.

1 "brainwashing."¹⁰ In this motion, defendants demonstrated that
2 each of the alleged specific acts set forth in plaintiffs' prior
3 memorandum occurred before April 1, 1987, and were barred by the
4 statute of limitations, because the Aznarans themselves had
5 explicitly testified that they experienced and were aware of the
6 alleged emotional distress at the time. Def. Mem. at 16-19;
7 Uncontroverted Fact Nos. 5-7. In their opposition, plaintiffs
8 have not even attempted to refute defendants' showing that each
9 of the specific acts set forth in their prior opposition papers
10 is barred by the statute of limitations. Thus, any emotional
11 distress claim based on these specific acts must be dismissed.

12 Plaintiffs now appear to rely exclusively on their claim
13 based on "unwitting[] expos[ure] to coercive persuasion." Pl.
14 Opp. at 24; see Joint Status Report, at 5.¹¹ As set forth in
15 Def. Mem. at 16-19, this claim is barred by the two-year Texas
16 statute of limitations for personal injury. Tex. Civ. Code Ann.
17 section 16.003(a) (Vernon 1986). Plaintiffs are simply wrong
18 that California law applies to this claim, which arose in Texas
19 in or about 1972. See Pl. Opp. at 22-23 n.9. Thus, plaintiffs'
20 reliance on California tolling theories are simply irrelevant.

21 ¹⁰ Plaintiffs' "coercive persuasion" or "brainwashing" theory is
22 barred by both the First Amendment and standards for admissibility
23 of purportedly scientific evidence. See Defendants' Motion for
24 Summary Judgment, Pursuant to the First Amendment, dated July 11,
1991, at 27-32, and Defendants' Motion to Exclude the Testimony of
Plaintiffs' Designated Expert, dated July 29, 1991.

25 ¹¹ To the extent plaintiffs are claiming that the alleged acts set
26 forth in Pl. Opp. at 29-30, occurring after March 31, 1987, are
27 themselves actionable, as opposed to being part of the alleged
28 coercive persuasion, this Court must not consider such claims, as
they form no part of the Complaint, the Status Report, or
plaintiffs' prior submissions concerning their emotional distress
claims.

1 First, when a claim arises in another state, "in determining
2 the time when a cause of action arose and the statute of
3 limitations began to run, the courts will apply the law of the
4 state in which the cause arose." 12 Cal.Jur.3d, Conflict of Laws
5 section 101, at 604 (1974) (emphasis added); see State of Ohio v.
6 Porter, 21 Cal.2d 45, 51-52, 129 P.2d 691 (1942), cert. denied,
7 318 U.S. 757 (1943).

8 Second, when a suit is brought in California for a cause of
9 action arising in another state, and the claim would be barred in
10 that state, California "borrows" the statute of limitations of
11 that state and bars the claim in the courts of California. See
12 Cal. Code Civ. Proc. section 361.¹² Only "[w]here the cause of
13 action was held by a citizen of this state from the time it
14 accrued," would the borrowing statute not apply. 3 B. Witkin,
15 California Procedure, section 71, at 99 (3d ed. 1985); see
16 Biewend v. Biewend, 17 Cal.2d 108, 115, 109 P.2d 701 (1941)
17 ("since the plaintiff has not been a citizen of this state from
18 the time the cause of action accrued, [section 361] has the
19 effect of applying the Missouri statute of limitations to those
20 [claims] accruing" in Missouri) (emphasis added); 12 Cal.Jur.3d,
21 Conflicts of Law section 103 at 606-07 (exception to section 361
22 applies only when plaintiff "has held the cause, as a California

23
24 ¹² California Code of Civil Procedure section 361 states in full:

25 When a cause of action has arisen in another state, or in
26 a foreign country, and by the laws thereof an action
27 thereon cannot there be maintained against a person by
28 reason of the lapse of time, an action thereon shall not
be maintained against him in this state, except in favor
of one who has been a citizen of this state, and who has
held the cause of action from the time it accrued.

1 citizen, from the time it accrued") (emphasis added); Stewart v.
2 Spaulding, 72 Cal. 264, 266, 13 P. 661 (1887). The Aznarans were
3 not citizens of California until 1981, nine years after their
4 emotional distress cause of action accrued, nor were they
5 California citizens in April 1988 when this suit was commenced.
6 Thus, because plaintiffs do not even attempt to dispute that the
7 Aznarans' emotional distress claim based on "coercive persuasion"
8 would be barred if brought in Texas, see Def. Mem. at 17-18,
9 section 361 applies to bar the claim in California.

10 Moreover, even if California limitations law applied to this
11 claim, plaintiffs do not even attempt to dispute that defendants'
12 alleged practices were allegedly causing them emotional distress
13 as early as 1974, and that they were acutely aware of this
14 distress at that time as well as throughout their tenure with the
15 Church. Def. Mem. at 16-19; Uncontroverted Fact Nos. 5-7;
16 Declaration of Vicki Aznaran, dated Aug. 16, 1991, ¶ 13(E);
17 Declaration of Richard Aznaran, dated Aug. 16, 1991, ¶ 4. Thus,
18 plaintiffs' reliance on "delayed discovery" or "fraudulent
19 concealment" is to no avail.

20 The Aznarans are simply wrong, and can cite no authority for
21 their assertion that their claims accrued only when "the Aznarans
22 discovered that they had been brainwashed and unduly influenced
23 by defendants." Pl. Opp. at 23. Rather, the law is clear that
24 the claim accrued no later than when the Aznarans were aware that
25 they allegedly suffered severe emotional distress, not when they
26 came up with a legal label -- "brainwashing" -- for the emotional
27 distress they concededly were aware they were allegedly
28 suffering. Thus, the California Supreme Court has held:

1 the uniform California rule is that a limitations
2 period dependent on discovery of the cause of action
3 begins to run no later than the time the plaintiff
4 learns, or should have learned, the facts essential to
5 his claim. It is irrelevant that the plaintiff is
6 ignorant of his legal remedy or the legal theories
7 underlying his cause of action. Thus, if one has
8 suffered appreciable harm and knows or suspects [the]
9 cause, the fact that an attorney has not yet advised
10 him does not postpone commencement of the limitations
11 period.

12 Gutierrez v. Mofid, 39 Cal.3d 892, 897-98, 218 Cal.Rptr. 313, 316
13 (1985) (citations omitted, emphasis original and added); see
14 McGee v. Weinberg, 97 Cal.App.3d 798, 802, 159 Cal.Rptr. 86, 89
15 (1979) ("Knowledge of facts is what is critical, not knowledge of
16 legal theories.") (emphasis added).

17 Plaintiffs' "fraudulent concealment" tolling theory is
18 wholly untenable as applied both to the emotional distress claims
19 and to every other claim of the Aznarans. A fraud claim (or any
20 claim based on fraudulent concealment) runs from the time when a
21 plaintiff, "tested by an objective standard," "discovers the
22 facts constituting the violation or in the exercise of reasonable
23 diligence should have discovered them." Meadows v. Bicrodyne
24 Corp., 785 F.2d 670, 672 (9th Cir. 1986) (citations omitted);
25 Gutierrez, supra, 39 Cal.3d 896-99, 218 Cal.Rptr. at 315-16.
26 Moreover, "[i]f a plaintiff has inquiry notice, he must prove
27 that he could not have reasonably discovered the facts
28 constituting the alleged fraud." David K. Lindemuth Co. v.

1 Shannon Financial Corp., 660 F.Supp. 261, 264 (N.D.Cal. 1987);
2 Miller v. Bechtel Corp., 33 Cal.3d 868, 191 Cal.Rptr. 619, 623-24
3 (1983); Def. Mem. at 25-27. Defendants have shown in explicit
4 detail that, as a matter of uncontroverted fact, plaintiffs
5 should have been and in fact were well aware of any alleged
6 frauds no later than 1984, and that they were on reasonable
7 inquiry notice of any alleged frauds, which could readily have
8 been discovered by plaintiffs, well over three years before they
9 commenced this lawsuit. See Def. Mem. 27-38; Separate Statement
10 of Uncontroverted Facts, Fact Nos. 10-16.

11 Thus, because the Aznarans concededly were aware well before
12 April 1, 1987, that the alleged acts of defendants were allegedly
13 causing them emotional distress, and because all the acts that
14 plaintiffs have testified or previously asserted caused them
15 emotional distress accrued before April 1, 1987, the claims for
16 negligent and intentional infliction of emotional distress must
17 be dismissed as untimely.

18 C. The Claim for Loss of Consortium Must Be Dismissed

19 Plaintiffs do not contest the facts set forth by defendants,
20 Pl. Opp. at 36-37, which demonstrate that plaintiffs' alleged
21 loss of consortium ended no later than March 31, 1987, more than
22 one year prior to the filing of this lawsuit, that plaintiffs
23 were aware they were experiencing a loss of consortium at the
24 time, and that they were aware the alleged harm was caused by
25 defendants' alleged conduct. See Def. Mem. at 21-24;
26 Uncontroverted Fact Nos. 7-9. This Court must accept this
27 undisputed evidence and dismiss this claim.

28 Plaintiffs' only excuse for their late filing of this claim

1 is that "the injuries caused to plaintiffs' marriage in
2 consequence of defendants' imposition of coercive persuasion
3 without plaintiffs' knowledge or consent were not necessarily
4 immediately attributable to defendants' misconduct." Pl. Opp. at
5 ¶ 37 (emphasis added). Not only is this the first time
6 plaintiffs have ever made this vague assertion, but the mere
7 statement that the inquiries "were not necessarily" attributable
8 to defendants does not constitute the "specific facts showing
9 that there is a genuine issue for trial" that the non-moving
10 party "must set forth" to defend against a motion for summary
11 judgment. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248
12 (1986) (emphasis added).

13 Here, of course, the undisputed evidence shows that, whether
14 or not plaintiffs "necessarily" would be aware of the cause of
15 their alleged claim, plaintiffs were in fact aware of their
16 alleged loss of consortium at the time, and that they did in fact
17 know it was attributable to defendants' alleged conduct. Thus,
18 Ms. Aznaran testified that she asked Mr. Aznaran for a divorce in
19 1974, as a result of statements by Dean Stokes that Mr. Aznaran
20 was a "suppressive person," which Ms. Aznaran ultimately accepted
21 as true. V.A. Dep. at 862-63. Under the Texas two-year statute
22 of limitations, which applies pursuant to the California
23 borrowing statute, Civ. Proc. Code § 361, the 1974 divorce claim
24 is untimely. Def. Mem. at 21.

25 As to the claim based on purported brief periods of
26 separation in 1986 until March 31, 1987, Ms. Aznaran testified
27 that she specifically requested of her superiors in the fall or
28 winter of 1986 that she "wanted to work something out so that I

1 could be with Richard, we had been apart too long." V.A. Dep. at
2 1218; Def. Mem. at 23; Uncontroverted Fact No. 8. The Aznarans
3 also assert that they were aware that they were separated as a
4 result of defendants' alleged conduct while Ms. Aznaran was on
5 the RPF from March 3 to March 31, 1987. Pl. Opp. at 12; R.A.
6 Dec., Aug. 16, 1991, ¶ 4.

7 Even if the delayed discovery rule applied to a claim of
8 loss of consortium, the statute runs not from the time a
9 plaintiff determines her legal theory, but from when "he has
10 notice or information of circumstances to put a reasonable person
11 on inquiry, or has the opportunity to obtain knowledge from
12 sources open to his investigation." Gutierrez, supra, 39 Cal.3d
13 at 896-97, 218 Cal.Rptr. at 315 (internal quotations omitted).

14 As the Aznarans were indisputably aware of their purported
15 injury and its cause before April 1, 1987, this claim must be
16 dismissed. Priola v. Paulino, 72 Cal.App.3d 380, 140 Cal.Rptr.
17 186, 191-92 (1977); Uram v. Abex Corp., 217 Cal.App.3d 1425,
18 1438, 266 Cal.Rptr. 695, 703 (1990). That the Aznarans had not
19 yet come up with the label of "brainwashing" to describe the
20 cause of the injury, of which they were long aware, is, of
21 course, legally irrelevant. See Gutierrez, supra, 39 Cal.3d at
22 897-98, 218 Cal.Rptr. at 316; McGee, supra, 97 Cal.App.3d at 803,
23 159 Cal.Rptr. at 89.

24 D. Plaintiffs' Remaining Causes of Action Must Be Dismissed

25 Plaintiffs do not controvert any of the facts or law set
26 forth by defendants, which demonstrate that each of plaintiffs'
27 six remaining causes of action -- fraud, constructive fraud,
28 breach of contract, restitution, invasion of privacy, and

1 statutory California minimum wage claim -- are barred by the
2 statute of limitations.¹³ Instead, plaintiffs simply assert,
3 without any explanation:

4 Each of the tolling theories, discussed above, is
5 applicable to the remaining causes of action and, under
6 the facts of this case, are sufficient to raise triable
7 issues as to the accrual of the statute of limitations
8 of each of the remaining causes of action.

9 Pl.Opp. at 37.

10 As plaintiffs have failed to controvert any of defendants'
11 Statement of Uncontroverted Facts, they must all be taken as
12 true. See Local Rule 7.14.3. Because there is nothing in
13 plaintiffs' opposition papers as to these six causes of action to
14 which defendants can respond, defendants hereby rely on their
15 prior memorandum and supporting papers, which demonstrate that
16 each of these six claims are time-barred, as well as Point IIB,
17 supra, which debunks plaintiffs' "fraudulent concealment" tolling
18 theory, and Point III, infra, which demonstrates that plaintiffs'
19 "conspiracy" tolling theory is meritless.

20 III. THE STATUTE OF LIMITATIONS IS NOT TOLLED BY CONSPIRACY

21 The Aznarans contend that the statute of limitations should

22 ¹³ Defendants once again note that plaintiffs once again concede
23 that there is no cause of action for civil conspiracy. Pl. Opp. at
24 17 n.7; see Joint Status Report at 8 n.1; Baltimore Football Club,
25 Inc. v. Superior Court, 171 Cal.App.3d 352, 359 n.3, 215 Cal.Rptr.
26 323, 326 n.3 (1985); 5 B. Witkin, Summary of California Law,
27 section 44 (9th ed. 1988); 12 Cal.Jur.3d, Civil Conspiracy section
28 4 at 179 (1974) ("Since there is no cause of action for conspiracy
in and of itself, the statute of limitations is determined by the
nature of the action in which the conspiracy is alleged or
appears."). Thus, there is no basis for this Court's continued
refusal to dismiss the plaintiffs' fifth cause of action alleging
"Conspiracy."

1 be tolled because defendants' alleged acts were allegedly carried
2 out pursuant to a civil conspiracy, citing Wyatt v. Union
3 Mortgage Co., 24 Cal.3d 773, 157 Cal.Rptr. 392 (1979).

4 Plaintiffs seriously misconstrue the scope of Wyatt, and on the
5 undisputed facts of this case, Wyatt does not toll the statute of
6 limitations for any of plaintiffs' claims that are otherwise
7 barred by the statute of limitations.

8 A. There is No "Last Overt Act" Pursuant to a Conspiracy within
9 the Limitations Period For Several of the Causes of Action

10 Assuming for the moment that the tolling doctrine of Wyatt
11 applies to non-fraud actions, but see Point IIIB, infra, no overt
12 acts even remotely relevant to several of the alleged torts are
13 even alleged to have occurred within the limitations period. In
14 the absence of an overt act in furtherance of a conspiracy to
15 commit the alleged wrong, the limitations period is not tolled.

16 Ms. Aznaran's alleged false imprisonment at the RPF ended on
17 March 31, 1987, outside the one-year limitations period, and the
18 newly invented claim of false imprisonment after March 31, 1987,
19 is meritless as a matter of law. See Point IIA, supra. Even
20 assuming that there was a conspiracy to falsely imprison Ms.
21 Aznaran at the RPF, there is no evidence of any overt act in
22 furtherance of such false imprisonment conspiracy after she left
23 on March 31. Of course, under Wyatt, "it is imperative for the
24 plaintiff to allege when the last overt act took place." 24
25 Cal.3d at 789, 157 Cal.Rptr. at 401 (internal quotations
26 omitted).

27 In addition, the "last overt act" must be in furtherance of
28 a conspiracy to commit the alleged tort. In other words, a last

1 overt act in furtherance of a conspiracy to defraud cannot toll
2 the statute of limitations for the unrelated claim of false
3 imprisonment. See Wyatt, 24 Cal.3d at 788, 157 Cal.Rptr. at 401
4 (plaintiff must allege "at least some act pursuant to the
5 conspiracy was still being performed . . . within the . . .
6 limitations time period") (emphasis added); Maheu v. CBS, Inc.,
7 201 Cal.App.3d 662, 674, 247 Cal.Rptr. 304, 310-11 (1988) (act
8 that gives rise to a copyright claim is not in furtherance of a
9 conspiracy to convert wrongfully the same property). Because
10 there was no false imprisonment "conspiracy" after March 31,
11 1987, the claim is time-barred, even assuming Wyatt's relevance.

12 The identical argument applies to the loss of consortium
13 claim. Any alleged loss of consortium ended no later than March
14 31, 1987, outside the limitations period. See Point IIC, supra;
15 Def. Mem. at 19-25; Uncontroverted Fact Nos. 7-9. Plaintiffs
16 allege no overt act in furtherance of a conspiracy to cause a
17 loss of consortium after March 31, 1987, and Ms. Aznaran
18 specifically testified that the plaintiffs experienced no such
19 loss after March 31, 1987. V.A. Dep. at 746-50, 818-21.
20 Therefore this claim is time-barred, even if Wyatt otherwise is
21 applicable to this tort.

22 As to Ms. Aznaran's invasion of privacy claim, her testimony
23 explicitly eliminates any issue of fact whether there was ever a
24 conspiracy to invade her privacy, let alone an overt act in
25 furtherance of such a conspiracy after March 31, 1987. Thus, Ms.
26 Aznaran's testimony shows that the individual who allegedly
27 invaded her privacy did so on his own, and against the wishes of
28 the only two other individuals who were aware of his acts. V.A.

1 Dep. at 1260-62; Def. Mem. at 47-48; Fact No. 23.¹⁴

2 B. The Conspiracy Tolling Doctrine Does Not Apply to Torts

3 Both the specific holding of Wyatt and its rationale are
4 limited to claims of economic fraud, and this federal court
5 should be cautious in expanding this unusual doctrine,
6 particularly given that the Ninth Circuit has explicitly
7 repudiated Wyatt when federal law governs the time of accrual of
8 a cause of action. See Gibson v. United States, 781 F.2d 1334,
9 1340 (9th Cir. 1986), cert. denied, 479 U.S. 1054 (1987); Compton
10 v. Ide, 732 F.2d 1429, 1432-33 (9th Cir. 1984) ("Mere continuance
11 of a conspiracy beyond the date when injury or damage occurs does
12 not extend the statute of limitations. . . . It is the wrongful
13 act, not the conspiracy, which is actionable in a civil case.").
14 Defendants are unaware of any other jurisdiction that has adopted
15 Wyatt's civil conspiracy theory, presumably because, as
16 plaintiffs' position here amply illustrates, it virtually
17 eliminates the statute of limitations as a bar to trial on long-
18 stale claims.

19 In Wyatt, the plaintiffs alleged claims of fraud and
20 constructive fraud in the obtaining of a mortgage loan. Wyatt
21 focused on the nature of the fraud in that case as an ongoing

22
23 14 The totally vague, unsubstantiated statements in plaintiffs'
24 declarations that their invasion of privacy claim is based on the
25 acts of one Kimberly Yager, V.A. Dec. ¶ 13(F); R.A. Dec. ¶ 12(E),
26 must be ignored by this Court. This alleged incident has never
27 been part of the Aznarans' claim for invasion of privacy in their
28 complaint, status report, testimony, or any other papers filed in
this matter. Again, the Aznarans have chosen to invent a new claim
once they realize that the claim heretofore asserted is time-
barred. In any event, nothing in the plaintiffs' papers
demonstrates an invasion of privacy by Ms. Yager, let alone by
defendants.

1 scheme that froze the plaintiffs in place absent judicial relief.
2 24 Cal.3d at 786, 788, 157 Cal.Rptr. at 400-01.

3 The Aznarans' attempt to apply Wyatt to any and all of their
4 various tort, contract, and statutory claims goes far beyond any
5 known construction of the Wyatt fraud tolling theory. The Wyatt
6 doctrine has never been extended to claims for negligent or
7 intentional infliction of emotional distress, breach of contract,
8 restitution, loss of consortium, invasion of privacy, or a
9 statutory minimum wage claim. The acts plaintiffs complained of
10 here that allegedly resulted in such wrongs were in fact
11 separate, distinct and completed acts, which gave rise to a cause
12 of action at the time they allegedly occurred, and certainly no
13 later than when plaintiffs became aware of the fact of their
14 alleged injuries. See Gutierrez, 39 Cal.3d at 896-97, 218
15 Cal.Rptr. at 315. These distinct acts cannot be blithely equated
16 with the type of unified, ongoing economic scheme to defraud a
17 party, in which individual acts do not themselves support a claim
18 for damages, but rather ultimately culminate in a fraud being
19 perpetrated on the plaintiff and which holds the plaintiff in
20 place, such as occurred in Wyatt.

21 Not only should this federal court not distort Wyatt to
22 reach intentional tort, contract, and statutory claims, but it is
23 inconceivable that the California courts would so stretch Wyatt
24 to reach the long-stale allegations here, many of which accrued
25 over fifteen years before suit was commenced and as to which the
26 plaintiffs themselves cannot recall the relevant facts. In the
27 interests of federalism and comity alone, this federal court
28 should not be the first court to expand Wyatt so drastically.

1 C. Under the Circumstances Here, Wyatt Does Not Apply

2 The circumstances of the alleged fraud here, involving
3 alleged misrepresentations by defendants that they would provide
4 plaintiffs with spiritual and psychological services that would
5 make them better persons, Complaint, ¶ 54, are so distinct from
6 Wyatt as to make the civil conspiracy tolling theory inapplicable
7 for several reasons.

8 First, the Aznarans' testimony makes clear that there could
9 not have been a conspiracy to defraud them. Mr. Aznaran
10 concedes that he made the same representations to others,
11 including to Ms. Aznaran, that he now alleges were fraudulent,
12 and that he believed them at the time. R.A. Dep.II at 635-41.
13 He further testified that those who made the representations to
14 him indicated that they too believed them, and that Mr. Aznaran
15 believes that they too were "brainwashed". Id. at 642, 647-57.
16 Similarly, Ms. Aznaran explicitly testified that the entire
17 leadership of Scientology was "brainwashed" into accepting
18 Scientology beliefs. V.A. Dep. at 1200-01. Mr. Aznaran said:

19 You don't rise in power unless you are brainwashed. It's
20 only people who are thoroughly and totally and completely
21 brainwashed that are trusted with power.

22 R.A. Dep.II at 666. In such circumstances, where everyone
23 believes in the statements alleged to be fraudulent, the Aznarans
24 have failed to create a genuine issue of fact either of a fraud
25 or of a conspiracy to defraud the plaintiffs.

26 Second, the plaintiffs have relied upon five types of
27 representations as the exclusive basis for their fraud claims.
28 See Pl. Dec. 7 Opp. at 38; see Def. Mem. at 35-37. These

1 representations were made to the Aznarans between 1971 and 1973
2 in Texas. Pl. Dec. 7 Opp. at 33-36; see also V.A. Dep. at 1236-
3 50 (alleged representations made to her between 1972-77 in Texas
4 were made "too long ago" for her to remember specifically what
5 was represented to her). Because plaintiffs have relied
6 exclusively on representations made to them in Texas, the Texas
7 statute of limitations law applies, pursuant to California's
8 borrowing statute. See Civ. Proc. Code . Like the Ninth
9 Circuit, Texas follows the discovery-of-the-fraud accrual rule,
10 Interfirst Bank-Houston v. Quintana Petroleum Corp., 699 S.W. 2d
11 864, 875 (Tex.App. 1985), not California's unique civil
12 conspiracy tolling theory. Def. Mem. at 27. Thus, under Texas
13 law, only those fraudulent acts that occurred within two years of
14 discovery of the fraud are actionable. See Cathey v. First City
15 Bank of Arkansas Pass, 758 S.W.2d 818, 822 (Tex.App. 1988) ("any
16 act committed more than two years prior to the filing of this
17 conspiracy action would be barred by limitations").

18 Even if the Aznarans continued to experience the alleged
19 detriments of the alleged misrepresentations after they moved to
20 California in 1981, eight to ten years after they were allegedly
21 induced to join the Scientology religion, there is no legal basis
22 for this federal court to engraft the California civil conspiracy
23 tolling doctrine onto Texas law. Moreover, there is no "last
24 overt act" of a conspiracy to defraud within the three-year
25 limitations period, as Ms. Aznaran testified that the last
26 fraudulent misrepresentation occurred in 1977. Thus, Ms.
27 Aznaran's fraud claims resulting from representations in Texas
28 are barred by the statute of limitations, and Wyatt is

1 irrelevant. That Ms. Aznaran is now willing to contradict her
2 sworn testimony, and assert that she continued to rely on alleged
3 misrepresentations (from people that she has testified believed
4 the alleged representations themselves) simply demonstrates
5 plaintiffs' willingness to rewrite the "evidence" to suit their
6 monetary desires.

7 Even assuming that California law applies, that the
8 representations were fraudulent, and that overt acts in
9 furtherance of a conspiracy to defraud occurred within the
10 limitations period, any reasonably prudent person would have
11 discovered the true nature of the allegedly fraudulent
12 representations by the early 1980's at the absolute latest. Def.
13 Mem. at 25-38; Uncontroverted Fact Nos. 5-16. Once discovered,
14 the Aznarans could simply have ended their association with the
15 Church, as they ultimately chose to do in 1987. The Aznarans
16 have simply produced no evidence that, at any time after they did
17 or should have discovered the alleged frauds in the early 1980's,
18 they could not have followed the procedures for leaving their
19 staff positions that they ultimately followed in April 1987.

20 From the time a reasonable person would have discovered
21 defendants' allegedly fraudulent conduct, any detriment the
22 Aznarans experienced was, as a matter of fact and law, a
23 voluntary decision to remain with the Church, and was not a
24 result of any fraud by defendants that continued to hold the
25 plaintiffs in place, as required by Wyatt. The Aznarans, of
26 course, had no legal obligation to remain in the Church and were
27 free to leave. Their own testimony clearly shows that they did
28 in fact choose to leave the Church as members in good standing in

1 1987 and received a low-interest loan of \$20,000 and letters of
2 recommendation for future employment, which Ms. Aznaran stated
3 were "good consequences" of leaving. V.A. Dep. at 1185.

4 This situation contrasts sharply with Wyatt. The key point
5 in Wyatt is that even after the plaintiffs learned of the fraud,
6 and even after they had hired attorneys, there was no way to get
7 out of their legal and economic obligations to defendants prior
8 to judicial action. Thus in Lewelling v. Farmers Ins. of
9 Columbus, Inc., 879 F.2d 212 (6th Cir. 1989), the court, in
10 applying California law, made clear that Wyatt is an unusual
11 exception to the general rule that a fraud claim "begins to run
12 when an individual becomes aware of fraudulent harm." Id. at 217.
13 For the Wyatt exception to apply there must be "evidence . . .
14 that sheer economic duress or overpowering influence rendered
15 plaintiffs incapable of acting to protect their legal rights."
16 Id. Nothing of the kind is present here. When the Aznarans
17 decided to leave their staff positions but remain Scientologists
18 in good standing, they did just that, without violating any legal
19 or economic obligations. Wyatt, therefore, is wholly
20 inapplicable.

21 IV. THE COURT SHOULD DISREGARD THE REMAINDER OF THE OPPOSITION

22 As detailed in the Preliminary Statement, supra, the real
23 thrust of the Aznarans' Opposition is not the foregoing,
24 ineffectual legal contentions, but rather the "just allege it"
25 philosophy of Yanny's paralegal, Gerald Armstrong, Yanny's
26 continuing involvement despite this Court's explicit order, and
27 the willingness of the Aznarans and their counsel to say anything
28 at any time to try to breathe life into their false and moribund

1 claims. Armstrong's "helping out" while the Opposition was
2 concocted not only reveals the continuing taint of Yanny's
3 involvement with this case, it establishes the guiding principle
4 that resulted in an Opposition that avoids cogent analysis of
5 pertinent law and fact and instead seeks to prejudice the Court
6 to the point of overlooking the motion, the relevant matters, and
7 the fact that the Aznarans have all but expressly conceded that
8 all their claims are time-barred.

9 Armstrong's philosophy of litigation is that facts and the
10 truth are irrelevant and that all that is required to prevail is
11 to allege whatever needs to be alleged is spelled out in a
12 videotape of Armstrong made in 1984 as part of a police-
13 authorized private investigation of individuals, including
14 Armstrong, who attempted to seize control of the Church. [Cooley
15 Dec., ¶ 4] In that tape, in the context of a discussion of
16 attempting to prove facts in a civil proceeding where evidence
17 was unavailable, Armstrong (under the mistaken belief that he was
18 speaking with an ally) stated what a civil litigant should do
19 when faced with a lack of evidence:

20 They can allege it. They can allege it.

21 They don't even have -- they can allege it.

22 * * *

23 Fucking say the organization destroys the
24 documents.

25 * * *

26 Where are the -- We don't have to prove a
27 goddamn thing. We don't have to prove shit;
28 we just have to allege it.

1 [Id. at ¶ 4.]

2 The Aznarans literally trip over their own sworn statements
3 in employing Armstrong's view of what courts will accept from
4 civil litigants. They and their counsel are hopeful that
5 smearing and falsely accusing defendants of all manner of things
6 will suffice to prejudice the Court against the defendants to
7 such an extent that truth, fact, law, and evidence are
8 subordinated to a barrage of false and irrelevant accusations.
9 Defendants submit the Rathbun, Bush, Prince, Heller, Bowles and
10 Farny Declarations to set the record straight and debunk the lies
11 that plaintiffs have elected to allege. They do not create any
12 issue of material fact; this motion, based upon statutes of
13 limitation and essentially undisputed facts, is meritorious on
14 its own pertinent facts. Those declarations simply show that the
15 Aznarans, Yanny, Greene and Armstrong will say absolutely
16 anything, no matter how false or heinous, when they are
17 concerned.

18 They are concerned here, trapped between facts that
19 unassailably set their supposed claims in the legally distant
20 past and statutes that bar their claims forever.

21 CONCLUSION

22 For the reasons set forth herein, and in defendants'
23 previous memorandum and papers filed therewith, this Court should
24 grant the defendants' motion for summary judgment dismissing
25 plaintiffs' entire complaint as barred by the applicable statutes
26 of limitations.

27 Dated: August 26, 1991

Respectfully submitted,

28 RABINOWITZ, BOUDIN,

STANDARD, KRINSKY &
LIEBERMAN, P.C.

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)


I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On August 26, 1991, I caused to be served the foregoing document described as REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT BASED ON THE STATUTE OF LIMITATIONS on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

If hand service is indicated on the above list, I caused the above-referenced paper to be served by hand.

Executed on August 26, 1991 at Hollywood, California.



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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.

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SEP 07 1991

HUB LAW OFFICES

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 VICKI J. AZNARAN and RICHARD N.
12 AZNARAN,

13 Plaintiffs,

14 vs.

15 CHURCH OF SCIENTOLOGY OF
16 CALIFORNIA, et al.,

17 Defendants.

18 AND RELATED COUNTER CLAIM
19

No. CV-88-1786-JMI (Ex)

DECLARATION OF GERALD
ARMSTRONG REGARDING
ALLEGED "TAINT" OF
JOSEPH A. YANNY, ESQUIRE

Date: September 9, 1991
Time: Discretionary
Ct: Hon. James M. Ideman

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

DECLARATION OF GERALD ARMSTRONG

I, Gerald Armstrong, declare and state that:

1. I was a Scientologist and held many positions in many sectors of Scientology, hereinafter referred to as "the organization," from 1969 to 1981. I have been involved in organization litigation as a witness, defendant, plaintiff and paralegal from 1982 until the present. I have testified in three trials and in depositions in ten organization cases approximately forty-seven days. I have authored over twenty-five declarations concerning L. Ron Hubbard, Scientology practices and the litigation. I am by trade a philosopher, writer and artist. In 1986 I founded a church which now has many members internationally.

2. I am the defendant and cross-complainant in the case of Church of Scientology of California v. Armstrong Los Angeles Superior Court No. C420153. A decision in that case was rendered after a lengthy bench trial by Judge Paul G. Breckenridge, Jr. on June 20, 1984. The California Court of Appeal opinion, No. B025920, issued July 29, 1991, affirming the Superior Court's decision, has recently been filed in this case as an exhibit to the Aznarans' oppositions.

3. In December 1986 I entered into a settlement agreement with the organization, a copy of which is filed herewith as Exhibit 1. The organization did not honor the agreement, however, but has continued a program of threats and attacks to this day. I have detailed what I knew of these threats and attacks up to March 15, 1990 in my declaration of that date. The circumstances at the time of the settlement and a rebuttal of various organization attacks are contained in a declaration I executed on December 25, 1990. I can supply these declarations to the Court if it so wishes.

4. I make this declaration to respond to various allegations about me made by the organization in its papers recently filed in this case.

5. Organization attorney Laurie Bartilson states that my aid to attorney Ford Greene in preparing the Aznarans' recently filed oppositions to organization motions "violated this Court's orders and the Local Rules."

(Defendants' Opposition To Ex Parte Application To File Plaintiffs' Genuine Statement of Issues [sic] Re Defendants' Motions (1) To Exclude Expert Testimony; and (2) For Separate Trial On Issues of Releases and Waivers; Request that Oppositions Be Stricken; hereinafter "Opp To Ex P", p.2,3.) I aid Mr. Greene and the Aznarans out of my own free will and my sense of right and wrong. If I am ordered by any lawfully constituted court to cease rendering such aid I will.

6. Ms. Bartilson states that I "[am] employed by Joseph Yanny on this very case." (Opp To Ex P p.4) I am not.

7. Ms. Bartilson states that for me "to now have switched [my] aid to Greene's office further taints all (emphasis in original) of the papers filed by Greene..." (Opp To Ex P p.5) It doesn't, because there was not and is not any taint..

8. Ms. Bartilson states that my aiding Mr. Greene "is grounds for [his] disqualification." (Opp to Ex P p.5) It isn't; but if this Court were so to order me, I will comply.

9. Ms. Bartilson suggests that Mr. Greene should be disqualified because I am "a paralegal formerly employed by defendant's lawyers." (Opp To Ex P p.5) I have never been employed by any organization lawyer.

10. Ms. Bartilson declares that "[she has] been informed by private investigators hired by [her] law firm that [I] was present at Ford Greene's offices many times from August 3, 1991 through at least August 21, 1991,

often for hours and days at a time." (Opp To Ex P p.9,para 4) I was outside the United States from August 3 until August 10, and not in Marin County where Mr. Greene's office is located until August 13, 1991. Filed herewith as Exhibit 2 are copies of my boarding passes for my flights from San Francisco to Johannesburg, South Africa on July 19 and 20, returning August 9 and 10.

11. Organization attorney William Drescher states that "[a]s [I am] Yanny's paralegal on this case, [my] new affiliation as an assistant to Ford Greene is truly outrageous." (Supplemental Memorandum In Support of Defendants' Motion To Dismiss Complaint With Prejudice; hereinafter "Supp Memo," p.4) I am not Mr. Yanny's paralegal on this case, and my affiliation with Mr. Greene is wholly peaceful, lawful, decent, helpful, respectful, and humorous.

12. Mr. Drescher states that "Yanny's involvement in this case continues, this time through a different "extension"--the improper activities of Yanny's paralegal, Gerald Armstrong." (Supp Memo p.5) I am not Mr. Yanny's paralegal. I answered his call for help during the period he was attorney of record in this case. I spent parts of two days on July 15 and 16 in Mr. Yanny's office during which time the only "work" I did was to write two declarations, one of which was also used by Mr. Greene. Mr. Yanny gave me no instructions or suggestions at any time to pass on to Mr. Greene or to anyone else involved in the Aznaran litigation. I am not Mr. Yanny's "extension" into this case. This organization's actions in attempting to deny their victims, the Aznarans, not only legal representation but support to the Aznarans' legal representatives is what is improper.

13. Mr. Drescher states that in 1984 I was "plotting against the Scientology Churches and seeking out staff members who would be willing to assist [me] in overthrowing Church leadership." (Supp Memo p.5) The

organization is not a church. Organization operatives David Kluge and Michael Rinder sought me out and gained my trust through a close friend whom the organization coerced into participating in an operation to attempt to entrap me. The organization operatives stated that they wanted to reform the organization and rid it of its criminal activities and they asked me to help. They said they wanted to save Scientology from its criminal leadership. They stated they were operating secretly within the organization for fear of, inter alia, being killed. They used my willingness to communicate and to help to attempt to enveigle me into the commission of a crime. When that failed, the organization simply twisted my refusal to participate in the suggested criminal act into further accusations.

14. Mr. Drescher states that "[t]he Church obtained information about [my] plans and, through a police-sanctioned investigation, provided [me] with the "defectors" [I] sought." (Supp Memo p.5) That the organization and its lawyers have told this lie so many times in so many jurisdictions over so many years has not made it any more true now than when they concocted the plot. I was videotaped. The videos are still embarrassing to me because I use foul language. What I say does not mean what the organization and its lawyers say it means. A private investigator (who, during this period threatened to put a bullet between my eyes) obtained a false authorization from an LAPD officer, who was himself suspended six months for his participation in the crime. The organization did not obtain information about my plans; it created the whole operation, including what my "plans" were to be.

15. Mr. Drescher states that "[o]n November 30, 1984 [I] met with one Michael Rinder, an individual whom [I] thought to be one of [my] "agents" (but who in reality was loyal to the Church)" (parens in original). (Supp

Memo p.5) I never considered Rinder my agent, nor did I consider that I had any agents. Rinder was not loyal to the "church." He was being operated by what the operatives called the "criminal leadership."

16. Mr. Drescher states that "the conversation [was] recorded with written permission from law enforcement." (Supp Memo p.5) It wasn't. The Chief of the LAPD denied authorizing the illegal operation, and the officer was suspended for his "permission."

17. Mr. Drescher quotes some out-of-context statements from my November 1984 meeting with Michael Rinder and avers that they meant that I was recommending that the group of "reformers" did not need "actual evidence of wrongdoing to make allegations in Court against the Church leadership." (Supp Memo p.5) My answer to Rinder is out of frustration because he appeared to be unable to understand that a complaint contains allegations, and the proof of the allegations is achieved through documentation and testimony, including even the well-known fact of the organization's long history of destruction of evidence, obtained through the litigation up to the end of trial. Elsewhere and in other conversations I discussed with the "reformers" what was actually known and documented, and which could be alleged in the complaint they insisted they wanted to file. I discussed with the "reformers" an inventory of criminal acts for which we knew the organization was responsible. They included burglary of state and federal offices, theft, obstruction of justice, blackmail, assault, civil rights violations, immigration fraud, tax fraud, attempted entrapment of Federal Judges, framing of my own attorney Michael Flynn, the use of preclear folder information against all Scientologists, all the acts which flowed from "'fair" game," and the use of their charitable corporation funds to carry out these criminal acts.

18. Organization attorney Eric Lieberman states that "the utter disregard of the truth that the Aznarans have made the trademark of their litigation effort, bears the unmistakable signature of Gerald Armstrong, whose theory of litigating against Churches of Scientology, as captured on videotape in 1984, is not to worry about what the facts really are, but instead to choose a state of "facts" that should survive a challenge by the Church and "just allege it." (Reply In Support of Defendants' Motion For Summary Judgment Based On the Statute of Limitations; hereinafter "Reply Stat Lim," p.2,3) This is not true. It is simply further exploitation of the fruits of the organization's covert actions against me: the illegal 1984 videotape regarding what the organization calls the "Armstrong Operation," Until I started to help Mr. Greene, I had nothing to do with the Aznaran case, which was filed in April 1988, except for my help to Mr. Yanny described in paragraph 12 above. I have given no facts to the Aznarans, nor any legal strategy. Besides the declarations I have written, all of which are now before this Court, I have written not one word in any of the filed papers. My help to Ford Greene in all of the papers recently filed has been in proofreading, copying, collating, hole-punching, stapling, stamping, packaging, labeling, air freighting and mailing. Mr. Greene and I have had several conversations during this period, some of which certainly concerned the litigation.

19. Mr. Lieberman states that "[i]t is clear that [my] influence and philosophy permeates the Aznaran's oppositions." (Reply Stat Lim p.3) I pray that that is true, because my philosophy in litigating against the organization is to tell the truth, have the faith that, no matter what lies the organization tells or operations it runs or how threatening the organization appears to be, truth will prevail; that, no matter how the organization

perverts the law, manipulates courts, testifies falsely, fights unfairly, wields religion as a sword and then a shield and abuses the legal process, justice will, if fought for honorably, triumph.

20. Mr. Lieberman states that "[o]n August 19, 1991 [I] admitted to one of defendants' counsel that [I] was at Greene's office "helping out."" (Reply Stat Lim p.3) I admitted no such thing. I was doing nothing even faintly improper which would require admission. I have been completely up front about my being in Mr. Greene's office and helping him. It is the organization which has skulked around and engaged in improprieties which it should admit to. I was so shocked when I discovered the organization operatives videotaping me on August 20 that I wrote Mr. Lieberman to protest the harassment. When I found the operation continuing on August 21 I again wrote Mr. Lieberman, and called his office, advised one of his associates of the operation and pleaded that it be called off. Copies of my letters are filed herewith as Exhibits 3 and 4. Mr. Lieberman has not answered my letters, has not mentioned them in his papers, which he signed on August 26, but has escalated the attack on my character and intentions. The operation has continued at least until August 30. Because of its form and nature, and because of my knowledge of organization operations and its philosophy of opportunistic hatred, I believe that this operation does not have as its major goal the proof that I am helping Mr. Greene. I believe its goal is intimidation and the assembly of intelligence information for future acts.

21. Mr. Lieberman states that "the real thrust of the Aznarans' Opposition is....the "just allege it" philosophy of Yanny's paralegal, Gerald Armstrong." (Reply Stat Lim p.33) I am not Mr. Yanny's paralegal, and "just allege it" is really the organization's litigation theory. L. Ron Hubbard

established the Guardian's Office and then the Office of Special Affairs to carry out his way of litigating.

"In the face of danger from Governments or courts.....

If attacked on some vulnerable point by anyone or anything or any organization, always find or manufacture (emphasis added) enough threat against them to cause them to sue for peace." L. Ron Hubbard, Policy Letter of 15 August, 1960 "Dept of Govt Affairs." (Exhibit 5)

22. Mr. Lieberman states that "[my] "helping out" while the Opposition was concocted not only reveals the continuing taint of Yanny's involvement with this case, it establishes the guiding principle that resulted in [the] Opposition..." (Reply Stat Lim p.34) Not one thing, not the ability to proofread, photocopy, collate, hole-punch, staple, package, label, air freight or mail that I did in connection with the preparation of the Aznarans' oppositions, did I learn from Mr. Yanny. Not the ability to spot and confront organization operatives did I learn from Mr. Yanny. Not the ability to write, nor any fact or idea or word in any declaration did I learn from Mr. Yanny. I have been the target of "fair" game since I left the organization in 1981, and understand its philosophy. I know the organization's litigation theories and practices and I understand the psychopathology of L. Ron Hubbard and why he and his organization came to be viewed by Courts as paranoid and schizophrenic. There is nothing Mr. Yanny could possibly tell me which would surprise me or be additional to what I know about this organization. Mr. Yanny has provided no "guiding principle" whatsoever. The organization, by making and maintaining fair game as its guiding principle, established the guiding principle in this litigation. The fair game doctrine will dog the organization as long as there are honest and free men or until the

organization, not denies its existence, but completely and sincerely repudiates it.

23. Mr. Lieberman states that "[my] philosophy of litigation is that facts and the truth are irrelevant and that all that is required to prevail is to allege whatever needs to be alleged." (Reply Stat Lim p.34) I have survived all the cross-examination and depositions by the organization, the documentation attacks by the organization, the character assassination by the organization, the use of my preclear folder information, the operations, the threats, the assaults, because truth is relevant. Although there undoubtedly is some memory loss over the past twenty-two years, and although there may even be some discrepancies in forty-seven days of sworn testimony, I have survived examination and cross-examination because I have, as much as is humanly possible, told the truth. I have said what I have known, known when I didn't know something, and stated my opinions as opinions. It is my opinion that one honest man can confront and vanquish a dishonest organization, no matter how big or how organized. Gratefully there are a few honest men to make the work lighter.

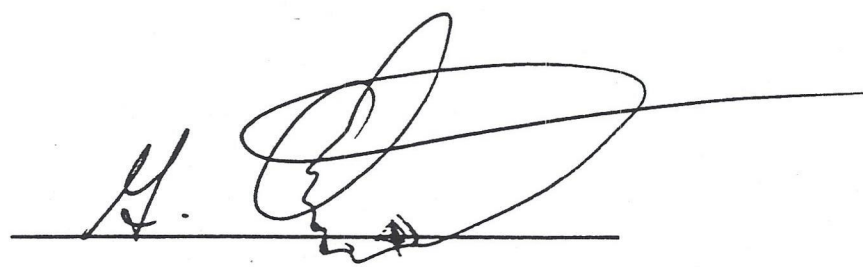
24. Mr. Lieberman states that "[t]he Aznarans' desperation to defeat this motion is so profound that they resort not only to the "just allege it" litigation philosophy of Joseph A Yanny's paralegal assigned to this case, Gerald Armstrong, but also to enlisting Armstrong's help in this cynical, say-anything-you-have-to approach to the truth." (Reply In Support of Defendants' Motion For Summary Judgment Pursuant To the First Amendment; hereinafter Reply First Am, p. 2) I am not Mr. Yanny's paralegal, and I am not assigned to this case. The desperation which resulted in the enlisting of my help had a purely logistical basis. Mr. Greene faced a mountain of organizational motions which required oppositions, and

no time to do them. He has no employees but a secretary who comes in a couple of evenings a week sometimes and sometimes on Saturdays. He needed simple office backup in the form of proofreading, photocopying, collating, hole-punching, etc. I am blessed with those simple office skills, and I have a knowledge of the subject matter and the cause in which Mr. Greene labors. I am aware of the awesome disparity of resources between Mr. Greene and the army of law firms, lawyers, paralegals, secretaries, and organizational legal machinery of his opposition. I am aware of the organization's policies and practices of neutralizing or eliminating the legal support of its enemies. How could anyone resist a call to help in this situation? It was not a conspiratorial thought that plunked me down over a year ago within running distance of the Hub Law Offices and sporting the same zip code. What it was was merely making the inevitable not only funny but easier.

25. Organization attorneys have made much of the fact that Joseph Yanny has been enjoined from representing me in litigation adverse to the organization. (Op To Ex P p.10; Supp Memo p.4) He is, of course, its former attorney. I have been working with Mr. Greene since August 17. I have not seen nor heard one word of Mr. Yanny's influence in this case, beyond the fact that the organization just alleged it.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on September 3, 1991 at Sleepy Hollow, California.

A handwritten signature, appearing to be 'H. [unclear]', is written over a horizontal line. The signature is in dark ink and is somewhat stylized.

MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT

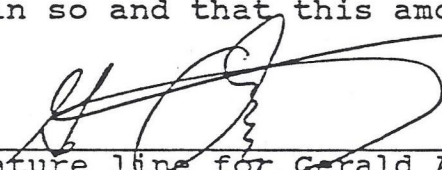
1. This Mutual Release of All Claims and Settlement Agreement is made between Church of Scientology International (hereinafter "CSI") and Gerald Armstrong, (hereinafter "Plaintiff") Cross-Complainant in Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153. By this Agreement, Plaintiff hereby specifically waives and releases all claims he has or may have from the beginning of time to and including this date, including all causes of action of every kind and nature, known or unknown for acts and/or omissions against the officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel of CSI as well as the Church of Scientology of California, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Religious Technology Center, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; Author Services, Inc., its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and its trustee; and Mary Sue Hubbard, (all hereinafter collectively referred to as the

"Releasees"). The parties to this Agreement hereby agree as follows:

2. It is understood that this settlement is a compromise of doubtful and disputed claims, and that any payment is not to be construed, and is not intended, as an admission of liability on the part of any party to this Agreement, specifically, the Releasees, by whom liability has been and continues to be expressly denied. In executing this settlement Agreement, Plaintiff acknowledges that he has released the organizations, individuals and entities listed in the above paragraph, in addition to those defendants actually named in the above lawsuit, because among other reasons, they are third party beneficiaries of this Agreement.

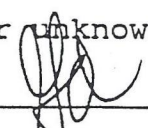
3. Plaintiff has received payment of a certain monetary sum which is a portion of a total sum of money paid to his attorney, Michael J. Flynn. The total sum paid to Mr. Flynn is to settle all of the claims of Mr. Flynn's clients. Plaintiff's portion of said sum has been mutually agreed upon by Plaintiff and Michael J. Flynn. Plaintiff's signature below this paragraph acknowledges that Plaintiff is completely satisfied with the monetary consideration negotiated with and received by Michael J. Flynn. Plaintiff acknowledges that there has been a block settlement between Plaintiff's attorney, Michael J. Flynn, and the Church of Scientology and Churches and entities related to the Church of Scientology, concerning all of Mr. Flynn's clients who were in litigation with any Church of Scientology or related entity. Plaintiff has received a portion of this block

amount, the receipt of which he hereby acknowledges.
Plaintiff understands that this amount is only a portion of
the block settlement amount. The exact settlement sum
received by Plaintiff is known only to Plaintiff and his
attorney, Michael J. Flynn, and it is their wish that this
remain so and that this amount remain confidential.



Signature line for Gerald Armstrong

4. For and in consideration of the above described
consideration, the mutual covenants, conditions and release
contained herein, Plaintiff does hereby release, acquit and
forever discharge, for himself, his heirs, successors,
executors, administrators and assigns, the Releasees,
including Church of Scientology of California, Church of
Scientology International, Religious Technology Center, all
Scientology and Scientology affiliated organizations and
entities, Author Services, Inc. (and for each organization or
entity, its officers, agents, representatives, employees,
volunteers, directors, successors, assigns and legal
counsel); L. Ron Hubbard, his heirs, beneficiaries, Estate
and its executor; Author's Family Trust, its beneficiaries
and trustee; and Mary Sue Hubbard, and each of them, of and
from any and all claims, including, but not limited to, any
claims or causes of action entitled Gerald Armstrong v.
Church of Scientology of California, Los Angeles Superior
Court, Case No. 420 153 and all demands, damages, actions and
causes of actions of every kind and nature, known or unknown,

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for or because of any act or omission allegedly done by the Releasees, from the beginning of time to and including the date hereof. Therefore, Plaintiff does hereby authorize and direct his counsel to dismiss with prejudice his claims now pending in the above referenced action. The parties hereto will execute and cause to be filed a joint stipulation of dismissal in the form of the one attached hereto as Exhibit "A".

A. It is expressly understood by Plaintiff that this release and all of the terms thereof do not apply to the action brought by the Church of Scientology against Plaintiff -- for Conversion, Fraud and other causes of action, which action has already gone to trial and is presently pending before the Second District, Third Division of the California Appellate Court (Appeal No. B005912). The disposition of those claims are controlled by the provisions of the following paragraph hereinafter.

B. As of the date this settlement Agreement is executed, there is currently an appeal pending before the California Court of Appeal, Second Appellate District, Division 3, arising out of the above referenced action delineated as Appeal No. B005912. It is understood that this appeal arises out of the Church of Scientology's complaint against Plaintiff which is not settled herein. This appeal shall be maintained notwithstanding this Agreement. Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose (by responding brief or any other means) any further appeals taken by the Church of

Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary.

5. For and in consideration of the mutual covenants, conditions and release contained herein, and Plaintiff dismissing with prejudice the action Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153, the Church of Scientology of California does hereby release, acquit and forever discharge for itself, successors and assigns, Gerald Armstrong, his agents, representatives, heirs, successors, assigns, legal counsel and estate and each of them, of and from any and all claims, causes of action, demands, damages and actions of every kind and nature, known or unknown, for or because of any act or omission allegedly done by Gerald Armstrong from the beginning of time to and including the date hereof.

6. In executing this Agreement, the parties hereto, and each of them, agree to and do hereby waive and relinquish all rights and benefits afforded under the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7. Further, the undersigned hereby agree to the following:

A. The liability for all claims is expressly denied by the parties herein released, and this final compromise and

settlement thereof shall never be treated as an admission of liability or responsibility at any time for any purpose.

B. Plaintiff has been fully advised and understands that the alleged injuries sustained by him are of such character that the full extent and type of injuries may not be known at the date hereof, and it is further understood that said alleged injuries, whether known or unknown at the date hereof, might possibly become progressively worse and that as a result, further damages may be sustained by Plaintiff; nevertheless, Plaintiff desires by this document to forever and fully release the Releasees. Plaintiff understands that by the execution of this release no further claims arising out of his experience with, or actions by, the Releasees, from the beginning of time to and including the date hereof, which may now exist or which may exist in the future may ever be asserted by him or on his behalf, against the Releasees.

C. Plaintiff agrees to assume responsibility for the payment of any attorney fee, lien or liens, imposed against him past, present, or future, known or unknown, by any person, firm, corporation or governmental entity or agency as a result of, or growing out of any of the matters referred to in this release. Plaintiff further agrees to hold harmless the parties herein released, and each of them, of and from any liability arising therefrom.

D. Plaintiff agrees never to create or publish or attempt to publish, and/or assist another to create for publication by means of magazine, article, book or other

similar form, any writing or to broadcast or to assist another to create, write, film or video tape or audio tape any show, program or movie, or to grant interviews or discuss with others, concerning their experiences with the Church of Scientology, or concerning their personal or indirectly acquired knowledge or information concerning the Church of Scientology, L. Ron Hubbard or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff further agrees that he will maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard, or any of the organizations, individuals and entities listed in Paragraph 1 above. Plaintiff expressly understands that the non-disclosure provisions of this subparagraph shall apply, inter alia, but not be limited, to the contents or substance of his complaint on file in the action referred to in Paragraph 1 hereinabove or any documents as defined in Appendix "A" to this Agreement, including but not limited to any tapes, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard, or any of the organizations, individuals, or entities listed in Paragraph 1 above. The attorneys for Plaintiff, subject to the ethical limitations restraining them as promulgated by the state or federal regulatory associations or agencies, agree not to disclose any of the terms and conditions of the settlement negotiations, amount of the

settlement, or statements made by either party during settlement conferences. Plaintiff agrees that if the terms of this paragraph are breached by him, that CSI and the other Releasees would be entitled to liquidated damages in the amount of \$50,000 for each such breach. All monies received to induce or in payment for a breach of this Agreement, or any part thereof, shall be held in a constructive trust pending the outcome of any litigation over said breach. The amount of liquidated damages herein is an estimate of the damages that each party would suffer in the event this Agreement is breached. The reasonableness of the amount of such damages are hereto acknowledged by Plaintiff.

E. With exception to the items specified in Paragraph 7(L), Plaintiff agrees to return to the Church of Scientology International at the time of the consummation of this Agreement, all materials in his possession, custody or control (or within the possession, custody or control of his attorney, as well as third parties who are in possession of the described documents), of any nature, including originals and all copies or summaries of documents defined in Appendix "A" to this Agreement, including but not limited to any tapes, computer disks, films, photographs, recastings, variations or copies of any such materials which concern or relate to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above, all evidence of any nature, including evidence obtained from the named defendants through discovery, acquired for the purposes of this lawsuit or any lawsuit, or acquired for any other purpose

concerning any Church of Scientology, any financial or administrative materials concerning any Church of Scientology, and any materials relating personally to L. Ron Hubbard, his family, or his estate. In addition to the documents and other items to be returned to the Church of Scientology International listed above and in Appendix "A", Plaintiff agrees to return the following:

(a) All originals and copies of the manuscript for the work "Excalibur" written by L. Ron Hubbard;

(b) All originals and copies of documents commonly known as the "Affirmations" written by L. Ron Hubbard; and

(c) All documents and other items surrendered to the Court by Plaintiff and his attorneys pursuant to Judge Cole's orders of August 24, 1982 and September 4, 1982 and all documents and other items taken by the Plaintiff from either the Church of Scientology or Omar Garrison. This includes all documents and items entered into evidence or marked for identification in Church of Scientology of California v. Gerald Armstrong, Case No. C 420 153. Plaintiff and his attorney will execute a Joint Stipulation or such other documents as are necessary to obtain these documents from the Court. In the event any documents or other items are no longer in the custody or control of the Los Angeles Superior Court, Plaintiff and his counsel will assist the Church in recovering these documents as quickly as possible, including but not limited to those tapes and other documents now in the possession of the United States District Court in the case of United States v. Zolin, Case No. CV

85-0440-HLH(Tx), presently on appeal in the Ninth Circuit Court of Appeals. In the event any of these documents are currently lodged with the Court of Appeal, Plaintiff and his attorneys will cooperate in recovering those documents as soon as the Court of Appeal issues a decision on the pending appeal.

To the extent that Plaintiff does not possess or control documents within categories A-C above, Plaintiff recognizes his continuing duty to return to CSI any and all documents that fall within categories A-C above which do in the future come into his possession or control.

F. Plaintiff agrees that he will never again seek or obtain spiritual counselling or training or any other service from any Church of Scientology, Scientologist, Dianetics or Scientology auditor, Scientology minister, Mission of Scientology, Scientology organization or Scientology affiliated organization.

G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology.

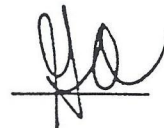
H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make

himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed.

I. The parties hereto agree that in the event of any future litigation between Plaintiff and any of the organizations, individuals or entities listed in Paragraph 1 above, that any past action or activity, either alleged in this lawsuit or activity similar in fact to the evidence that was developed during the course of this lawsuit, will not be used by either party against the other in any future litigation. In other words, the "slate" is wiped clean concerning past actions by any party.

J. It is expressly understood and agreed by Plaintiff that any dispute between Plaintiff and his counsel as to the proper division of the sum paid to Plaintiff by his attorney of record is between Plaintiff and his attorney of record and shall in no way affect the validity of this Mutual Release of All Claims and Settlement Agreement.

K. Plaintiff hereby acknowledges and affirms that he is not under the influence of any drug, narcotic, alcohol or other mind-influencing substance, condition or ailment such that his ability to fully understand the meaning of this Agreement and the significance thereof is adversely affected.



L. Notwithstanding the provisions of Paragraph 7(E) above, Plaintiff shall be entitled to retain any artwork created by him which concerns or relates to the religion of Scientology, L. Ron Hubbard or any of the organizations, individuals or entities listed in Paragraph 1 above provided that such artwork never be disclosed either directly or indirectly, to anyone. In the event of a disclosure in breach of this Paragraph 7(L), Plaintiff shall be subject to the liquidated damages and constructive trust provisions of Paragraph 7(D) for each such breach.

8. Plaintiff further agrees that he waives and relinquishes any right or claim arising out of the conduct of any defendant in this case to date, including any of the organizations, individuals or entities as set forth in Paragraph 1 above, and the named defendants waive and relinquish any right or claim arising out of the conduct of Plaintiff to date.

9. This Mutual Release of All Claims and Settlement Agreement contains the entire agreement between the parties hereto, and the terms of this Agreement are contractual and not a mere recital. This Agreement may be amended only by a written instrument executed by Plaintiff and CSI. The parties hereto have carefully read and understand the contents of this Mutual Release of All Claims and Settlement Agreement and sign the same of their own free will, and it is the intention of the parties to be legally bound hereby. No other prior or contemporaneous agreements, oral or written, respecting such matters, which are not specifically

incorporated herein shall be deemed to in any way exist or bind any of the parties hereto.

10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement.

11. The parties to this Agreement acknowledge the following:

A. That all parties enter into this Agreement freely, voluntarily, knowingly and willingly, without any threats, intimidation or pressure of any kind whatsoever and voluntarily execute this Agreement of their own free will;

B. That all parties have conducted sufficient deliberation and investigation, either personally or through other sources of their own choosing, and have obtained advice of counsel regarding the terms and conditions set forth herein, so that they may intelligently exercise their own judgment in deciding whether or not to execute this Agreement; and

C. That all parties have carefully read this Agreement and understand the contents thereof and that each reference in this Agreement to any party includes successors, assigns, principals, agents and employees thereof.

12. Each party shall bear its respective costs with respect to the negotiation and drafting of this Agreement and

all acts required by the terms hereof to be undertaken and performed by that party.

13. To the extent that this Agreement inures to the benefit of persons or entities not signatories hereto, this Agreement is hereby declared to be made for their respective benefits and uses.

14. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

15. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

16. In the event any provision hereof be unenforceable, such provision shall not affect the enforceability of any other provision hereof.

17. All references to the plural shall include the singular and all references to the singular shall include the plural. All references to gender shall include both the masculine and feminine.

18.(A) Each party warrants that they have received independent legal advice from their attorneys with respect to the advisability of making the settlement provided for herein and in executing this Agreement.

(B) The parties hereto (including any officer, agent, employee, representative or attorney of or for any party) acknowledge that they have not made any statement,

representation or promise to the other party regarding any fact material to this Agreement except as expressly set forth herein. Furthermore, except as expressly stated in this Agreement, the parties in executing this Agreement do not rely upon any statement, representation or promise by the other party (or of any officer, agent, employee, representative or attorney for the other party).

(C) The persons signing this Agreement have the full right and authority to enter into this Agreement on behalf of the parties for whom they are signing.

(D) The parties hereto and their respective attorneys each agree not to disclose the contents of this executed Agreement. Nothing herein shall be construed to prevent any party hereto or his respective attorney from stating that this civil action has been settled in its entirety.

(E) The parties further agree to forbear and refrain from doing any act or exercising any right, whether existing now or in the future, which act or exercise is inconsistent with this Agreement.

19. Plaintiff has been fully advised by his counsel as to the contents of this document and each provision hereof. Plaintiff hereby authorizes and directs his counsel to dismiss with prejudice his claims now pending in the action entitled Gerald Armstrong v. Church of Scientology of California, Los Angeles Superior Court, Case No. 420 153.

20. Notwithstanding the dismissal of the lawsuit pursuant to Paragraph 4 of this Agreement, the parties hereto agree that the Los Angeles Superior Court shall retain

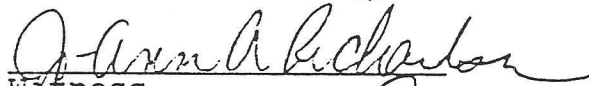
jurisdiction to enforce the terms of this Agreement. This Agreement may be enforced by any legal or equitable remedy, including but not limited to injunctive relief or declaratory judgment where appropriate. In the event any party to this Agreement institutes any action to preserve, to protect or to enforce any right or benefit created hereunder, the prevailing party in any such action shall be entitled to the costs of suit and reasonable attorney's fees.

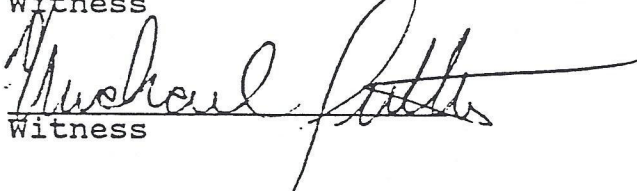
21. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date opposite their names.

Dated: December 6, 1985



GERALD ARMSTRONG


Witness

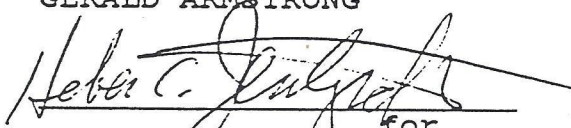

Witness

Dated: 12/6/86

APPROVED AS TO FORM AND
CONTENT:


MICHAEL J. FLYNN
Attorney for
GERALD ARMSTRONG

Dated: December 11, 1986


for
CHURCH OF SCIENTOLOGY
INTERNATIONAL

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SEE REVERSE SIDE FOR IMPORTANT INFORMATION

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EXHIBIT 3

Eric M. Lieberman, Esq.
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway, Fifth Floor
New York, NY 10003-9518

August 21, 1991

Dear Mr. Lieberman:

Organization operatives filmed me yesterday at least in the following situations:

1. Talking to an employee of attorney Ford Greene, in the doorway to Mr. Greene's office, at 711 Sir Francis Drake in San Anselmo, California.

2. Walking outside Mr. Greene's office.

3. Pulling on a T-shirt outside Mr. Greene's office.

4. Running outside Mr. Green's office.

Whilst I was on foot I was also pursued by one of the operatives driving a white Cadillac.

The driver of the Cadillac was later confronted by Mr. Greene who also recorded the licence number of Cadillac and the other vehicle being used by the operatives.

I doubt that you find it hard to believe that I consider the organization's operation has as its major target in the eval known but to two or maybe three or even four the assassination of Gerry Armstrong.

I am not unmindful of your use of the earlier videotape event in your Petition For Rehearing filed in the Armstrong appeal (n. 1, p. 6, second edition; n. 2, p.5, first edition).

There was no reason to videotape me as proof that I was associating with Ford Greene. I had spoken the day before to two of your fellow org lawyers, Laurie Bartilson and Bill Drescher, and two men from SO legal liaison staff, Howard Gutfeld and August Murphy, and from none of whom had I withheld the fact that I was helping Mr. Greene. None of them were not aware that I was speaking to them from Mr. Greene's office because all of them except for Mr. Murphy called Mr. Greene's office and I had spoken to

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them when I answered Mr. Greene's telephone to take messages for him while he was out of his office. Mr. Murphy spent some time in Mr. Greene's office and we spoke for a few minutes. I am quite certain he left with the impression that I was helping Mr. Greene, and specifically in the Aznaran case since, in addition to my saying so, he did observe me carrying into Mr. Greene's office two boxes containing the mega-copies of the two Oppositions to Summary Judgment Motions (Statute of Limitations and First Amendment) and related documents, and did hear me lament that his organization had cost Mr. Greene that very day over seven hundred dollars in copying costs.

I did note the sophrosynial shift in the two writers of the second edition of the Petition For Rehearing. I imagine the organization's idea of having Marty talk to me is not in the works.

I'm sure you understand why I do help those who need it, and why people who litigate with the organization need it. And I'm sure you know how utterly unbiased I am in that all I oppose are antisocial policies and activities. In that Scientology denies that any of its policies or activities are antisocial I am not opposed in any way to what Scientology says it is and says it does. I am only opposed to antisocial policies and practices.

It is really a matter of logistics. Your organization scares people. It scares me. There are therefore few people willing to do what needs to be done regarding the organization. I am simply willing to do what I can no matter how scary it is. If there were not so many people afraid of your organization I wouldn't need to do what I can to help.

As you know, the organization has at times terrorized me, it has a policy of revenge, its present owners have a personal hatred for me, and it has acted with its fair game doctrine directing its attitude and acts toward me since and in violation of the settlement. Obviously, then, it is in every way reasonable for me to associate with and help those who have the courage to oppose the organizational beast.

Then there's the religious argument. And its legal corollary: if antisocial acts are religious, then so must be any opposition to antisocial acts.

Then there's the matter of theology.

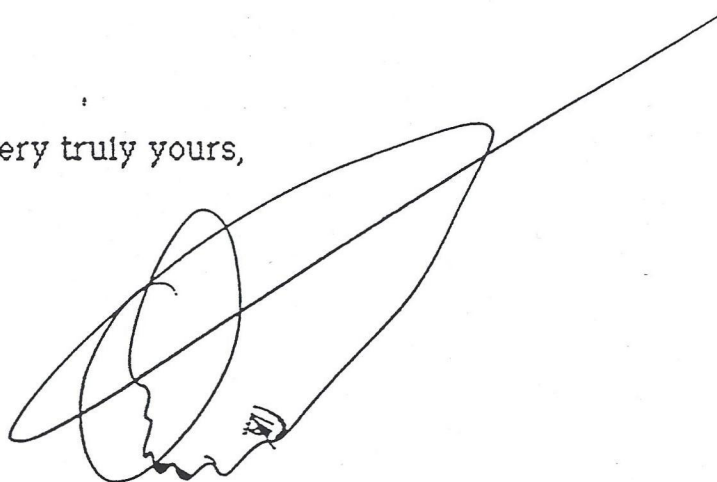
All of which brings me to the matter at hand. You know about compartmentalization, PIs, cutouts, lies and paranoia. There probably are things which can be done to bring the organization's self-destructive

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insitutionalized hatred to a peaceful conclusion. Although you exhibit in your most recent descriptions of me and in your willingness to go beyond mere factual twists, a new and greater animus, I still have an idea that you can do something.

I trust you'll reply.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gerry Armstrong'. The signature is stylized with a large, sweeping loop that extends upwards and to the right, crossing over the text 'Very truly yours,'.

Gerry Armstrong
(415)456-8450

Eric M. Lieberman, Esq.
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway, Fifth Floor
New York, NY 10003-9518

August 22, 1991

Dear Mr. Lieberman:

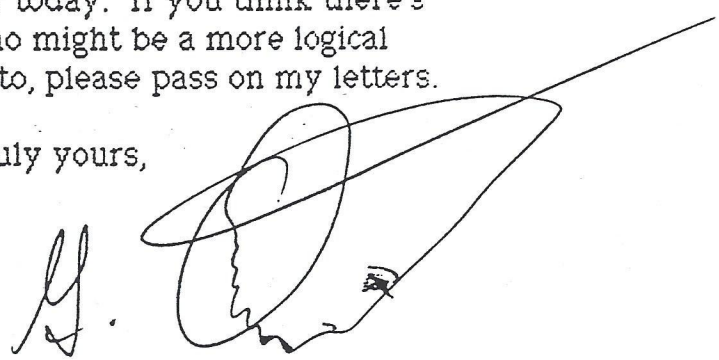
If there be any doubt about the veracity of the facts stated in my letter of yesterday please add these.

Yesterday, after writing you, I returned to Mr. Greene's office. At one point, in the late afternoon while standing outside talking to Mr. Greene, he noticed and pointed out a car perhaps a hundred yards away, across Sir Francis Drake and up a small hill. In it sat a man who at my first glance appeared to be watching us. I ran across SFD, up the hill and approached the car. I could see the man lower an object out of sight. I raised my hands, palms toward him to let him know I meant no harm and was unarmed; in case I had erred in my assessment that the man in the car was an operative, and I was approaching head on at flank speed an innocent innocently eating his dinner. He rolled up the window as I neared. I got very close and looked in the driver's window. He had dark hair, thick, a wiry appearance; i.e., his hair, somewhere in length between yours and mine, and a thick mustache. I couldn't smell his breath because, as I said, the window was rolled up, but I was close enough I imagined it. Height \pm 6'. On the front seat beside him were, inter alia, a video camera and a clipboard and some lawyers' yellow pad sheets. His firearms were clearly out of sight. On the top sheet in pen were written a page of entries with a progression of times beside the entries. I tried to make them out; i.e, the entries, but I was, as you can imagine, freaking out, my pulse was up around 150; not from the short run up the hill but the terror these confrontations strike in me; from a rest rate of \pm 48; and the driver, after a few second comm lag started the car and began to drive away. I put my body in front of the car because I wanted to get someone from law enforcement somewhere to do something but he let me know through unmistakable gestures that my body was not about to stop his forward progress so I, and I think in this case wisely, stepped aside and let him flee. I did run alongside the car and was near it when Mr. Greene arrived across SFD and also observed the driver and recorded the number from the car's muddled licence plate. When last seen his weapons were still out of sight; nor have I seen any more of him.

You might recall that when org operatives began their summer of 82 psycho-terror campaign I was able to detain the yellow VW by putting my body in front of it. Times and personalities have changed, the new fearless leader shoots photos of innocents with his 45, and for some totally baffling, unreasonably unreasonable reason you guys hate me. And you all sure act as if a sense of humor isn't a gift from God; and it is. Various people, on order from Hubbard or Miscavige, have tried , inter alia, libel, slander, threats, muscle, sworn false witness, frames, blackmail and betrayal. You can understand my concern at knowing that the top, the top operatives and the legal cutouts are chewing over the acts called for to satisfy the next gradient, while not even bothering to keep in mind what a flaming SP I am and what a threat I am to the future of mankind.

You will have probably received by now a report from Terry Gross in your office concerning my call to you of earlier today. If you think there's someone else connected to the organization who might be a more logical person for me to communicate these concerns to, please pass on my letters.

Very truly yours,

A handwritten signature in black ink, appearing to be 'G. Armstrong', with a large, sweeping flourish extending from the end of the name.

Gerry Armstrong
(415)456-8450

HUBBARD COMMUNICATIONS OFFICE
37 Fitzroy Street, London, W.1

HCO POLICY LETTER OF 15 AUGUST 1960
Re-issued from Sthil

Assn Secs
HCO Secs

DEPT OF GOVT AFFAIRS

(Cancels any previous directions to set up a Special Zone Dept)
(This Policy Letter is mandatory all Central Organizations)

There shall be established on a board level and outside the structure of the Central Org and HCO but under the board of HASI Ltd, a new department to be called "The Department of Government Affairs".

More and more, as governments disintegrate under the threat of atomic war and communism, central organizations have had to give high executive time to governmental affairs to the great loss of the organizations themselves. The enturbulence entered into Scientology activities by legal matters, tax matters, and matters of assisting governments to maintain stability, has sapped our time and fixed our attention to our own loss.

Now to remedy this situation, I wish to contain and cordon, in a military sense, this incursion and to prohibit utterly and completely such entrance (of these matters or our own project for governments) into Central Org or HCO comm lines. In other words, Central Orgs and HCOs are run by, for and as Scientology service and activity units and the special Department of Government Affairs shall handle other matters and specifically deny such non-Scientology matters entrance into organizational comm lines.

The Department of Government Affairs shall be headed and directed with a minimum of personnel and shall not be able to call upon the personnel of the Central Org or HCO for further assistance than the relay of communications.

The Director of Government Affairs shall be a fully qualified person of good judgement subject to control of the Board of Directors and shall be subject to the advices and directions of the Board and the HCO and Assn Secretary. Only Washington and South Africa are excluded from supervision of the Dept by the Assn Sec, Org Sec and HCO Sec. In all other offices the Director of Government Affairs shall be subordinate to the Assn Sec and HCO Sec.

Under this department comes the corporation's solicitors, attorneys, chartered accountants and any attorney or accountant hired directly by the corporation for outside legal or tax or filing purposes.

The allotment and issue of shares comes under this department, but the actual invoicing and banking shall be done as always by the Dept of Accounts or, for HCO, by the HCO Secretary.

All contracts, filings with the government, all tax reports and their preparation, corporation minutes, annual meetings, legal papers, suits against and by the corporation, whether HASI Ltd or HCO Ltd, all legal investigatory work and detectives, all contacts with government agents, bureaus and departments, all assistance to governments, messages to governments, handling answers from governments or courts shall be cared for by the Department, whether to advance or protect Scientology or its corporations by government or legal channels.

All legal documents and the Valuable Document files for HCO and HASI shall be kept by the Department in a proper safe in accordance with previous rules written for the keeping and handling of valuable documents.

All share sales reports and all legal, governmental and corporation reports to be made to the boards shall be made to it by this Department.

No shares may be advertised or issued save with the approval of this department.

No contracts, purchases or mortgages may be undertaken without the approval of this Department and then only by the action of this Department.

It is clearly understood that the Department shall not undertake financial management for the Central Org or HCO nor may it direct the Central Org or HCO on purely Scientology affairs or Scientology dissemination except where these may impinge directly upon the government, and even then this Department is enjoined from forcing government laws or rulings upon the Central Org or HCO by threat of danger or ominous advices, nor may the Department employ either solicitors nor accountants who specialize in ominous advices to the Orgs since the Orgs could be discouraged or impeded by such.

* The object of the Department is to broaden the impact of Scientology upon governments and other organizations and is to conduct itself so as to make the name and repute of Scientology better and more forceful. Therefore defensive tactics are frowned upon in the department. We are not trying to make the Central Orgs and HCOs "be good". We are trying to make their reach more secure and effective. Only attacks resolve threats.

* In the face of danger from Govts or courts there are only two errors one can make: (a) do nothing and (b) defend. The right things to do with any threat are to (1) Find out if we want to play the offered game or not, (2) If not, to derail the offered game with a feint or attack upon the most vulnerable point which can be disclosed in the enemy ranks, (3) Make enough threat or clamor to cause the enemy to quail, (4) Don't try to get any money out of it, (5) Make every attack by us also sell Scientology and (6) Win. If attacked on some vulnerable point by anyone or anything or any organization, always find or manufacture enough threat against them to cause them to sue for peace. Peace is bought with an exchange of advantage, so make the advantage and then settle. Don't ever defend. Always attack. Don't ever do nothing. Unexpected attacks in the rear of the enemy's front ranks work best.

Never put the organization on "wait" because of courts or other matters. It's up to the Department to make the actions of HCO Secs and Org Secs right, not enjoin right actions on the HCO and Org Secs.

To win we must have treasure and verve. If a Central Org and HCO function perfectly as service units then treasure and consequent security for the further advance are to hand. If the Department operates with verve and elan, even with rashness, it will afford a screen behind which organizations can work.

Example: BMA attacks Scientology in Australia via the government. Answer: throw heavy communication against the weakest point of the BMA—its individual doctors. Rock them with petitions to have medical laws modified which they are to sign. Couple the BMA attack with any group hated by the government. Attack personally by threats or suits any person signing anything for the BMA. Slam the matter into politics, advance a bill into parliament that strips the BMA of all legal rights by opening healing to all. Make the attack by the BMA look ridiculous. Attack medical practices. Investigate horrible practices loudly. (Always investigate loudly never quietly.) Make the distinct public and governmental impression and BMA impression that they've run into a barrage of arrows or electronic cannon and that continued attack by them will cause their own disintegration. As all this is being done on a thought or idea level the restimulation of their engrams results in the total impression that they are surrounded by their own dead and the battery may fire again at any minute. And if one makes in writing not one slanderous or libelous statement, there is no defense by them. This example is patterned on what just happened and what we did in Australia where we are winning strongly.

The personnel of the Department should be freed of past track legal and governmental overts by the HGC using evening auditing. This is a must, or the Department will otherwise attract attacks. Further, the higher the department personnel is raised on "control" through running help, the less action will have to be undertaken by it and the more it will actually accomplish without violent action.

The goal of the Department is to bring the government and hostile philosophies or societies into a state of complete compliance with the goals of Scientology. This is done by high level ability to control and in its absence by low level ability to overwhelm. Introvert such agencies. Control such agencies. Scientology is the only game on Earth where everybody wins. There is no overt in bringing good order.

The offices of the Department, so far as is possible, should be so situated as to bring no government traffic into the main avenues, comm lines or halls of the Central

Organization or HCO or so as to divert it to the maximum extent from said avenues, comm lines and halls.

The following personnel appointments are made, conditional to acceptance, as Directors of Government Affairs:

United States:	Marilynn Routsong	Los Angeles:	Dick Steves
South Africa:	Jack Parkhouse	Australia:	Denny Gogerly
London:	George Hay	New Zealand:	Steve Stevens.

In the United States and South Africa the head of the Department of Government Affairs shall be also Trustee or Area Director of the Central Organization while the Org Sec and Assn Sec shall not be, but will be officers of the corporation.

This policy letter and these appointments are prompted by the following facts:

1. My own traffic on government legal affairs is far too heavy and I need help of magnitude on a continental level.
2. HCO Secs and Assn Secs are having difficulty holding down their Orgs and the field because of the time demanded by government affairs.
3. The activity will get heavier rather than lighter.
 - (a) The deterioration of government order is accelerating with consequent confusion in all related affairs;
 - (b) Increasing amounts of order must be maintained by us at a governmental level against the possibility of finding our areas without governments.
4. We are about to file HASI Ltd and HCO Ltd in all areas with the attendant heavy legal and governmental action necessary.
5. We are about to arrange for the release of and the issue of over half a million pounds of shares to the public, thus making heavy demands on legal and government lines.
6. We are about to finance and erect various media of communications, such as radio stations, on the various continents and this will require enormous amounts of liaison and action in such a department.
7. We are about to finance and find new quarters in the United States and such activities come under the new Department.
8. Due to new clearing techniques, our sphere of control is widening. This is purely a case phenomenon, but will be felt heavily by Orgs in the future. It is necessary to provide comm lines for this widening of influence.

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L. RON HUBBARD

HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

HCO POLICY LETTER OF 22 AUGUST 1960

All Orgs
Sec EDs

DEPT OF GOVT RELATIONS

The Dept of Govt Relations may not use Org personnel for typing and mailing, and may only use Org personnel for reception, switchboard and despatch purposes.

Where numbers of mailing pieces are envisioned or where numbers of outside letters are to be sent by the Dept of Govt Relations, these may be done either by outside agencies or by a full or part time secretary to the Dir of G R. The necessary high appearance of G R letters and mailing pieces does not admit the use of mimeo and G R may not use organizational mimeo machines.

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L. RON HUBBARD

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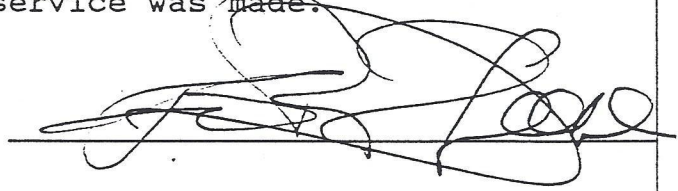
HUB LAW OFFICES
FORD GREENE, ESQUIRE
711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DECLARATION OF GERRY ARMSTRONG REGARDING ALLEGED "TAINT" OF JOSEPH A. YANNY, ESQUIRE on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California: SEE ATTACHED SERVICE LIST

- ☒ (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- ☐ (Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.
- ☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED: September 4, 1991



AZNARAN vs. SCIENTOLOGY

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18 Attorneys for Defendant
19 CHURCH OF SCIENTOLOGY
INTERNATIONAL

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Attorneys for Defendant
AUTHOR SERVICES, INC.

21 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 VICKI J. AZNARAN and) CASE No. CV 88-1786 JMI(Ex)
23 RICHARD N. AZNARAN,)
24 Plaintiffs,) DEFENDANTS' OPPOSITION TO EX PARTE
v.) APPLICATION TO FILE PLAINTIFFS'
25) OPPOSITION TO DEFENDANTS'
CHURCH OF SCIENTOLOGY OF) MOTION TO DISMISS COMPLAINT
26 CALIFORNIA, et al.,) WITH PREJUDICE; DECLARATION OF
27) LAURIE J. BARTILSON
Defendants.)
28) DATE: To be determined
AND RELATED COUNTERCLAIMS) TIME: To be determined
COURTROOM: Hon. James M. Ideman

1
2 Defendants oppose plaintiffs' Ex Parte Application to
3 File Plaintiffs' Opposition to Defendants' Motion to Dismiss
4 Complaint and request that these late-filed papers be stricken.

5 Not content to follow this Court's explicit orders and the
6 Local Rules, Plaintiffs have elected themselves custodian of
7 this Court's calendar. They were given until August 19, 1991 in
8 which to file their oppositions to pending motions. They
9 have unilaterally taken until, at last count, August 29.

10 Plaintiffs' abuses to this Court's orders is becoming
11 monumental. A brief rundown of those abuses is all that is
12 required to show that plaintiffs are not entitled to any relief
13 from this Court and that this Court should not only reject
14 plaintiffs' most recent late-filed opposition, but should grant
15 as unopposed defendants' motion to dismiss.

16 1. In just the past eleven days, plaintiffs have violated
17 this Court's orders and the Local Rules by:

18 (a) Filing oversized oppositions to defendants'
19 two summary judgment motions. These oppositions
20 were numerated to be 40 and 50 pages in length, but
21 were accompanied by a 53-page "Appendix of Fact,"
22 thus making the actual size of the two opposition
23 papers 93 and 103 pages;

24 (b) Attempting to late-file Statements of
25 Genuine Issues of Fact on Friday, August 23, 1991,
26 giving defendants no opportunity to respond to
27 those Statements with defendants' replies, originally
28 due to be filed on Monday, August 26, 1991;

1 (c) Failing to oppose in a timely fashion four
2 other pending motions;

3 (d) Failing to file a Pretrial Conference
4 Memorandum of Contentions of Fact and Law, due with
5 the Court on August 26, 1991 pursuant to Local Rule
6 9.5; and

7 (e) Unilaterally taking until August 29 to
8 oppose plaintiffs' motion to dismiss, notwithstanding
9 the Court's explicit instructions that plaintiffs'
10 papers be filed by August 19, three days after the date
11 he originally asked for.

12 2. Plaintiffs' counsel, Ford Greene, was required to meet
13 with defendants' counsel on August 7, to comply with the
14 Pre-Trial Order. He refused to show up, using as an excuse that
15 a new lawyer was going to join him in the case. Nevertheless,
16 that lawyer has yet to be heard from and Greene has still not
17 taken a single step to comply with the Pre-Trial Order.

18 3. This Court disqualified plaintiffs' former counsel,
19 Barry Van Sickle, as an extension of Joseph Yanny's improper
20 involvement in this case, so Yanny himself decided to appear and
21 the Court made fast work of him. Now Yanny's paralegal and
22 long-time Church adversary, Gerald Armstrong, is on loan to Ford
23 Greene and is not only working diligently on this case, but is
24 furnishing Greene with declarations. As is set forth in the
25 attached declaration of Laurie J. Bartilson and the
26 accompanying exhibits, Armstrong was hired by Joseph Yanny
27 to act as Yanny's paralegal on this very case. [Ex. A,
28 Declaration of Laurie J. Bartilson; Ex. B, Transcript of

1 Hearing of August 6, 1991 in Religious Technology Center
2 v. Yanny.] Armstrong's presence in Greene's office alone further
3 taints all of the papers filed by Greene, and is grounds for
4 disqualification of Greene himself as well. See, In re
5 Complex Asbestos Litigation (1991) 91 D.A.R. 8849 (requiring
6 disqualification of plaintiff's law firm for the hiring of a
7 paralegal formerly employed by defendant's lawyers).

8 4. Plaintiffs' stories concerning Greene's discharge,
9 Yanny's appearance and Greene's reappearance shift from day to
10 day, depending on which motion is being addressed:

11 (a) In plaintiffs' Ex Parte Application for an Order
12 Continuing Defendants' Summary Judgment Motion, filed on July 2,
13 1991, plaintiffs first, through Joseph Yanny, told the fanciful
14 story of how Yanny came to represent plaintiffs, falsely
15 claiming that a one-time nuisance value settlement offer on the
16 part of defendants somehow precipitated Mr. Greene's
17 dismissal. [See, plaintiffs' Ex Parte Application for an
18 Order Continuing Defendants' Summary Judgment Motion, July 2,
19 1991]. That story was repudiated by plaintiffs one month later
20 in Plaintiffs' Notice of Association of Trial Counsel John
21 Clifton Elstead, in which the Aznarans claimed that they had
22 dismissed Mr. Greene because they felt "sufficiently concerned
23 about Mr. Green's ability to handle and maintain the trial" of
24 their case that they replaced him with themselves as pro se
25 litigants. [See, Declarations of Vicki Aznaran and Richard
26 Aznaran filed in support of Plaintiffs' Notice of Association of
27 Trial Counsel John Clifton Elstead, August 1, 1991, para. 4.]
28 Now, in the Opposition to the Motion to Dismiss lodged ten days

1 late which Greene seeks leave to file, Greene has found it
2 expedient to parrot Yanny's lies concerning plaintiffs' shifting
3 of counsel.

4 (b) Vicki Aznaran, formerly one of the highest ranking
5 officials in the ecclesiastical structure of Scientology, claims
6 brainwashing when the goal is to avoid the statute of
7 limitations bar to her claims. [See, Plaintiffs' Opposition
8 to Defendants' Motion for Summary Judgment on the Grounds of the
9 Statute of Limitations.] On the other hand, she claims to be so
10 knowledgeable, canny, well-informed and self possessed that she
11 couldn't possibly learn anything new from Joseph Yanny when the
12 goal is to avoid answering for the most prejudicial and
13 egregious sell-out of clients known to the legal profession.
14 [See, Defendants' Opposition to Motion to Dismiss at p. 4].

15 What we have here is anarchy. Plaintiffs and their current
16 counsel, Ford Greene, their shadow counsel, Joseph Yanny, and
17 Yanny's paralegal, Gerald Armstrong make up their own rules as
18 they go along, sneer at the Court's rules and orders, and
19 fabricate whatever story they consider necessary to pervert the
20 law and the orderly administration of justice at any given
21 moment.

22 The moving party is required to present his reasons for
23 seeking the ex parte application, and a memorandum of points
24 and authorities in support thereof. The burden is on the moving
25 party to demonstrate good cause if he seeks to have more time in
26 which to file papers. Local Rule 1.18. Plaintiffs have done
27 neither. Instead, they offer a declaration of their counsel,
28 which states merely that he "is human," as if that invocation

1 somehow excuses him from compliance with this Court's orders.

2 Greene's complaint that he has been unable to follow
3 this Court's orders, even with the improper aid of Gerald
4 Armstrong, is thus a completely hollow argument. It is plain
5 that plaintiffs and their counsel have nothing but contempt for
6 this Court, its Rules and its Orders.

7 This is merely the latest episode in plaintiffs' '
8 "persistent pattern of abusive conduct," Chism v. National
9 Heritage Life Ins. Company, 637 F.2d 1328, 1331 (9th Cir.
10 1981), which defendants and the Court have tried in vain to
11 cure. The schedule set by the Court was clear and concise,
12 plainly designed to permit the Court to rule on pending matters
13 prior to the Pretrial Conference, now set for September 16,
14 1991. Plaintiffs' refusal to comply with this clear order, and
15 instead late-file oppositions willy-nilly, is inexcusable.

16 Local Rule 7.3.3 authorizes this Court to strike the
17 attempted filing of any late-filed documents and disregard it
18 for all purposes. The equities of this case cry out for just
19 such a result here. Defendants have complied with the Rules
20 and this Court's orders, suffered irreparable harm while
21 plaintiffs hired defendants' former counsel, and have had their
22 dispositive motions delayed for weeks through plaintiffs'
23 machinations. Plaintiffs and their counsel have, however,
24 disobeyed order after order of this Court, refused to follow
25 the Local or Federal Rules, and commanded the Court to march to
26 their schedule and accept whatever they chose to file, whenever
27 they chose to file it. Plaintiffs cannot - must not - be
28 rewarded for this misconduct. Defendants respectfully urge

1 this Court to examine plaintiffs' conduct, weigh the obvious
2 equities, deny plaintiffs' ex parte application, and strike
3 plaintiffs' late-filed oppositions to defendants' motions.

4 Dated: August 30, 1991

Respectfully submitted,

QUINN, KULLY AND MORROW

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

BOWLES & MOXON

8
9 By: 

Laurie J. Bartilson

10 Attorneys for Defendant
11 CHURCH OF SCIENTOLOGY
12 INTERNATIONAL

WILLIAM T. DRESCHER

13 COOLEY, MANION, MOORE
14 & JONES, P.C.

15 Attorneys for Defendants
16 CHURCH OF SPIRITUAL TECHNOLOGY
and RELIGIOUS TECHNOLOGY CENTER

17 MICHAEL LEE HERTZBERG

18 BERRY & CAHALAN

19 Attorneys for Defendant
20 AUTHOR SERVICES, INC.

DECLARATION OF LAURIE J. BARTILSON

I, LAURIE J. BARTILSON, hereby declare and state:

1. I am co-counsel of record for plaintiffs in the case of Aznaran v. Church of Scientology of California, et al., Case No. CV 88-1786 JMI(Ex). I have personal knowledge of the matters set forth herein and, if called upon to do so, could and would competently testify thereto.

2. On August 19, 1991, I called the offices of Ford Greene, counsel for plaintiffs in this case, to arrange to have a courier pick up several oppositions which plaintiffs were due to file that day.

3. The person who answered the telephone in Mr. Greene's office identified himself as Gerald Armstrong. When queried, Armstrong stated that he was at Greene's office "helping out." I know Armstrong, as I attended his deposition in another case in which I am also counsel. He is a long-term litigation adversary of my client, Church of Scientology of California, having been sued for conversion of documents belonging to the Church's Founder.

4. I have been informed by private investigators hired by my law firm that Armstrong was present at Ford Greene's offices many times from August 3, 1991 through at least August 21, 1991, often for hours and days at a time. When my courier went to Greene's offices on August 19, 1991 to pick up papers in this case, he observed Armstrong sleeping on the floor in the office.

5. Exhibit 1 to the Reply in Support of Defendants' Motion for Summary Judgment is a true and correct copy of a transcript of an August 6, 1991 hearing in the case of

1 Religious Technology Center, et al. v. Yanny, Case No. BC

2 033035. In that case, Yanny was preliminarily enjoined by the
3 Court from representing either the Azarans or Armstrong.

4 I declare under the penalties of perjury under the laws of
5 California and the United States of America that the foregoing
6 is true and correct.

7 Executed this 30th day of August at Los Angeles,
8 California.


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11 LAURIE J. BARTILSON
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EXHIBIT G

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Church of Spiritual
Technology
419 North Larchmont, Suite 162
Los Angeles, CA 90004

Person to Contact:
Mr. M. Friedlander

Telephone Number:
(202) 566-6701

Refer Reply to:
E:EO

Date: JUL 8 1988

Employer Identification Number: 95-3781769
Form: 1120
Tax Years: All Years

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

This ruling is made for the following reasons:

1. You have failed to establish that you are operated exclusively for exempt purposes as required by section 501(c)(3) of the Code. You have not demonstrated that your activities and purposes conform to exempt purposes and activities as required by section 501(c)(3) of the Code.

You are one of a number of organizations which were created pursuant to a reorganization of the Church of Scientology which took place in 1981 and 1982. The reorganization was undertaken after the Service revoked the exempt status of the Church of Scientology of California, the former "Mother Church" of the denomination. The basis of the revocation was that the California church was an ordinary commercial enterprise, the Church's income inured to L. Ron Hubbard, founder of the Scientology religion, and the Church had violated public policy by conspiring to impede the Service from assessing and collecting taxes which were lawfully due. Church of Scientology of California v. C. I. R., 83 T.C. 381 (September 24, 1984). The revocation was sustained by the Tax Court and upheld by the Court of Appeals for the Ninth Circuit. 823 F. 2d 1310 (9th Cir. 1987).

An earlier case involving a Scientology organization had also resulted in a finding of private benefit to Mr. Hubbard and members of his family. Founding Church of Scientology v. U.S., 412 F. 2d 1197 (Ct. Cl. 1969), cert. den., 397 U.S. 1009 (1970).

In the Church of California case, cited above, the Tax Court described how the Church attempted to frustrate the Service's efforts to examine its financial affairs. The Church maintained no books or journals to record

Church of Spiritual Technology

and systematize its financial transactions. Therefore, the examination had to proceed on the basis of millions of separate checks, invoices, and disbursement vouchers. The Church's accountant saw to it that these documents were provided in no semblance of order. He advised another church to "give the IRS agent a bunch of records in a box in no semblance of order, to place the agent in a dark, small, out-of-the-way room, [and] to refuse to give practical assistance locating records." In the face of such tactics, the IRS spent approximately two years in an unsuccessful attempt to audit the Church's 1968 and 1969 financial operations.

In addition to the above tactics, the Church knowingly and purposely misled the IRS concerning extensive operations it conducted in the United Kingdom. It concealed from the examiners the fact that it regularly received debit advices from foreign banks in lieu of canceled checks. It never produced canceled checks from some of its accounts which it maintained in the name of another corporation. When checks were produced, they were sometimes detached from their stubs. Boxes of records were mislabeled. The Church intentionally delayed in providing requested records and in some instances it never provided the records at all.

In order to establish whether the reorganized Church of Scientology was operated exclusively in furtherance of exempt purposes, we sought to obtain detailed information from you and from the other newly created entities which had filed applications for recognition of exemption. Although some information was initially provided, the information was incomplete or partial. Eight of the organizations eventually withdrew their applications without providing the information we had requested.

While the applications were pending, witnesses gave testimony in court cases involving churches of Scientology. See Church of Scientology of California v. Gerald Armstrong, No. C 420153 (Calif. Super. Ct., July 20, 1984); Founding Church of Scientology of Washington, D.C., Inc., et al. v. Director, Federal Bureau of Investigation, et al., 802 F. 2nd 1443 (1985), cert. den., 56 U.S.L.W. 3231 (October 6, 1987). The testimony was to the effect that L. Ron Hubbard continued to control the Church of Scientology for his private benefit. Witness testimony in the Armstrong case alleged that the project known as Mission Corporate Category Sort-Out (MCCS) had been undertaken by the Church of Scientology of California in 1980. The alleged purpose of the MCCS project was, according to the testimony of Laurel Sullivan, to devise a new organizational structure to conceal L. Ron Hubbard's continued control of the Church of Scientology. In the Founding Church v. Director, F.B.I. case, to which the Service was a party, the government successfully argued that L. Ron Hubbard should be required to appear and be deposed because he was a managing agent of the Church. Mr. Hubbard did not appear and the case against the government defendants was dismissed with prejudice.

Church of Spiritual Technology

We asked the remaining applicants who had not withdrawn their applications to comment on the matters noted in the Armstrong and Founding Church v. Director, F.B.I. cases. They responded that the testimony related to other organizations and time periods, attacked the credibility of the witnesses, and stated that L. Ron Hubbard did not hold any position of control in any church of Scientology even though he was still revered as the founder of the religion. We were told that the present corporate structure had been designed after those responsible for the M CCS project had been dismissed from the church and that the work done on the M CCS project was not considered or consulted in designing the new organizational structure presently in place. At the same time, we were furnished for the first time a chart showing levels of authority and departments within the new organizational structure. One of the departments, the Commodore's Messenger Organization (International), exists within the corporate structure of Church of Scientology International, the new "Mother Church" of the denomination. According to allegations made in the Armstrong case, L. Ron Hubbard controlled the church through the Commodore's Messenger Organization utilizing David Miscavige, Pat Broeker and Anne Broeker to carry out his orders. David Miscavige, Anne Broeker, and Lyman Spurlock were the original trustees of Religious Technology Center. Mr. Miscavige enjoys a position of influence in the reorganized Scientology structure which we have been informed derives from "moral authority" rather than from any official position in the corporate structure. Lyman Spurlock is President of Church of Spiritual Technology and, along with Mr. Miscavige, is an employee of Author Services, Inc. Author Services, Inc., is a for-profit corporation formed to provide services to L. Ron Hubbard in connection with exploitation of patents and copyrights which Mr. Hubbard owned.

On January 7, 1986, we issued an initial adverse ruling on your application. You submitted a written protest to our initial adverse ruling. In your protest we learned for the first time of the existence of still other organizations which were related to the new Scientology operating structure. Following your protest conference, which was held in January, 1987, we asked you to provide more detailed information about these new "international" organizations, including International Association of Scientologists, International SOR Trust, SOR Management Services, Ltd., Scientology International Missions Trust, and International Scientology Religious Trust. In a letter dated November 24, 1987, we noted that you had previously agreed to supply that information to us. However, you did not supply the information.

In support of the protest to our initial adverse ruling, we were supplied with copies of affidavits dated December 4, 1986, from Gerald Armstrong and Laurel Sullivan. Ms. Sullivan was the person in charge of the M CCS project. The affidavits state that the new church management "seems to have returned to the basic and lawful policies and procedures as laid out by the founder of the religion, L. Ron Hubbard." The affidavits conclude as follows:

Church of Spiritual Technology

"Because of the foregoing, I no longer have any conflict with the Church of Scientology or individual members affiliated with the Church. Accordingly, I have executed a mutual release agreement with the Church of Scientology and sign this affidavit in order to signify that I have no quarrel with the Church of Scientology or any of its members."

The history of Scientology's operations detailed in the Church of California case includes a lack of adequate financial records, public policy violations, deceptive practices and the maintenance of enemies lists against whom any actions, however illegal, were justified. The California case also demonstrates inurement of net earnings and benefit to the private interest of Mr. Hubbard, operations that primarily furthered commercial purposes conducted amid continuous representations denying control by and benefit to Mr. Hubbard, and a tenacious denial of the actual state of the organization's affairs in the face of overwhelming evidence establishing the true nature of the organization's operations. More recently, attempts to conceal Mr. Hubbard's ongoing control of Scientology were alleged in the Armstrong case. Utilizing testimony any witnesses from the Armstrong case, the government successfully argued that Mr. Hubbard was a managing agent of the Church of Scientology as late as 1984. See the Founding Church v. Director F.B.I. case, cited earlier.

The events detailed in these court cases, which span almost the entire period of Scientology's history, create an inference that Scientology, even after reorganization, is not operated exclusively for exempt purposes. The fact that Mr. Armstrong and Ms. Sullivan elected to settle their personal differences with Scientology does not detract from the relevance of the statements they previously made concerning Mr. Hubbard's use of Scientology organizations to serve his private interest. Our experience with your organization similarly reflects a continuation of the pattern of inurement and benefit to the private interest of Mr. Hubbard, operations that primarily further commercial purposes, and denials of control by and benefit to Mr. Hubbard for periods prior to his death despite contrary judicial and Service findings. Blanket denials that Mr. Hubbard personally profited from his position of influence in Scientology and assertions that your operations exclusively further exempt purposes do not dispel this inference.

Mr. Hubbard died on January 24, 1986. But, his death did not alter the history of Scientology's prior operations or make available complete information about your actual operations. Moreover, the same individuals who controlled Scientology operations prior to Mr. Hubbard's death, and who participated in arrangements which resulted in inurement and private benefit, continued to control your operations and those of the other top level Scientology organizations after Mr. Hubbard's death. Thus, the possibility of inurement and private benefit continued after Mr. Hubbard's death and more complete information about your operations and financial affairs was required to assure that your operations had changed to eliminate any further private benefit.

Church of Spiritual Technology

For the reasons explained above, in a letter dated March 17, 1988, we proposed to review your books of account and records and those of Church of Scientology International and Religious Technology Center. As explained in our letter of March 17, 1988, the purpose of this review was twofold. First, to determine the integrity of your financial and accounting systems so we could verify that the information you had provided was accurate. Second to verify that no part of your net earnings inures to the benefit of any private shareholder or individual and that there is no other disqualifying activity.

Church of Spiritual Technology, Church of Scientology International, and Religious Technology Center agreed to participate in the financial reviews pursuant to the letters of March 17, 1988. Church of Spiritual Technology, Religious Technology Center and Church of Scientology International informed us by letter dated June 24, 1988, that they would no longer participate in the review. The refusal to continue the review, concentrating on those areas of concern, and their failure to fulfill the terms of the March 17, 1988, agreement, prevents us from concluding that Scientology's operations have changed and that activities previously found to be disqualifying for purposes of section 501(c)(3) of the Code have been discontinued. Therefore, we conclude that you have not established that you are operated exclusively for exempt purposes as required by section 501(c)(3) of the Code.

2. You are operated for a substantial non-exempt commercial purpose.

In our initial adverse ruling of January 7, 1986, we concluded that you were operated for a substantial non-exempt commercial purpose because your activities assisted other organizations in maximizing sales of goods and services associated with the practice of Scientology.

In your protest and subsequent submissions you argued that your activities were engaged in for religious rather than commercial purposes. You contended that the provision of goods and services for a fee, which is characteristic of Scientology, was a permissible means of providing funds necessary for Scientology to support its operations, provide reserves for renovations and expansion, and to attract potential new members to the religion.

Church of Spiritual Technology

We have carefully considered your arguments, but fail to see that sales of goods and services for a fee by Scientology organizations under policies and directives which emphasize sales and profits does not result in a primary purpose of engaging in activities similar in nature to those of an ordinary commercial enterprise, in which profits are the primary goal, rather than in advancing religious purposes. The fact that the fees provide a source of funds for operating expenses and future expansion and dissemination does nothing to distinguish these fee-for-service operations from similar activities of ordinary commercial enterprises. Therefore, by assisting and aiding in the marketing of Scientology, you are engaged in activities which further a substantial non-exempt commercial purpose.

Your archival activities relate to the materials constituting the scriptures of Scientology. These materials consist of the written and spoken works of L. Ron Hubbard on the subject of Scientology. Prior to his death, Mr. Hubbard held the copyrights on these materials. The works you collected were being commercially exploited by Mr. Hubbard and some of the organizations licensed by him. You were supported by income paid to you by some of the organizations engaged in this exploitation, notably Religious Technology Center and Church of Scientology Flag Service Organization, Inc., a subordinate of Church of Scientology International. You were thus performing functions which benefited these organizations and furthered their objective of marketing Scientology products and services.

After Mr. Hubbard's death, Religious Technology Center and Church of Scientology International and its subordinates have continued to market Scientology products and services. Your collection of original Hubbard writing and tape recordings enhances their marketing efforts because the products they market are derived from these original writings and tape recordings. Therefore, you are operated for a substantial non-exempt commercial purpose.

In addition, the refusal to continue the review agreed to in the letters of March 17, 1988, to Church of Spiritual Technology, Church of Scientology International, and Religious Technology Center, concentrating on those areas of concern, and their refusal to fulfill the terms of the March 17, 1988, agreement prevents us from concluding that Scientology's operations have changed and that activities previously found to be disqualifying for purposes of section 501(c)(3) of the Code have been discontinued. Therefore, we conclude that you have not established that you are operated exclusively for exempt purposes as required by section 501(c)(3) of the Code.

Church of Spiritual Technology

3. You are operated for the benefit of private interests and your net earnings inure to the benefit of private individuals.

In our initial adverse ruling, we concluded that your operations furthered the private interest of and resulted in inurement of net earnings to L. Ron Hubbard because he received royalties on the sales of products associated with the practice of the religion he founded. We also concluded that your activities served Mr. Hubbard's private interest through your participation in a plan to exploit Mr. Hubbard's trademarks, trade names, service marks, copyrights, and patents through licensing and assignment arrangements. We also concluded that your activities served the private interests of and resulted in inurement of net earning to organizations associated with Mr. Hubbard.

In your protest you called our attention to the fact of Mr. Hubbard's death and noted that his estate is in probate. Church of Spiritual Technology is the principal beneficiary of the estate and will receive the royalty income formerly received by Mr. Hubbard if it is determined to be exempt under section 501(c)(3). Based on these facts, you contend that private benefit, if there was any, ceased upon the death of Mr. Hubbard on January 24, 1986.

Mr. Hubbard's death does not erase the benefit and inurement to his private interest that occurred.

Further, both before and after Mr. Hubbard's death, you made the original writings and other materials formerly owned by Mr. Hubbard available to Church of Scientology International and Religious Technology Center in exchange for so-called "contributions" from Religious Technology Center and Church of Scientology Flag Service Org, Inc., a subordinate of Church of Scientology International. Religious Technology Center and Church of Scientology International engage in marketing Scientology to the public in a manner indistinguishable from that of an ordinary commercial enterprise. Therefore, your provision of the original Hubbard Materials to Religious Technology Center and Church of Scientology International serves the private interests of Religious Technology Center and Church of Scientology International.

In addition, the refusal to continue the review agreed to in the letters of March 17, 1988, to Church of Spiritual Technology, Church of Scientology International, and Religious Technology Center, concentrating on those areas of concern, and their refusal to fulfill the terms of the March 17, 1988, agreement prevents us from concluding that Scientology's operations have changed and

Church of Spiritual Technology

that activities previously found to be disqualifying for purposes of section 501(c)(3) of the Code have been discontinued. Therefore, we conclude that you have not established that you are operated exclusively for exempt purposes as required by section 501(c)(3) of the Code.

4. You have failed to establish that you are not operated for the benefit of private interests and that your net earnings do not inure to the benefit of private individuals.

Trusts and corporations can be used to siphon income from allegedly exempt organizations for the benefit of private individuals. This happened in the Church of California case. An allegedly religious trust and dummy Panamanian corporations were used to funnel money to L. Ron Hubbard.

Although the organizational structures employed by Scientology have changed since the California case, you have not clearly established that your relationship with the new entities furthers your exclusively exempt purposes. The past history of Scientology's operations suggests that the purpose of these organizations may be to disguise the fact that private interests are the ultimate beneficiaries of the reorganized operating structure.

An example of an organization which may serve private interests is International Publications Trust (IPT). Prior to the formation of IPT, L. Ron Hubbard granted licenses to New Era Publications (NEP) to produce Scientology books and E-meters. NEP sublicensed Bridge Publications, Inc. (BPI). The license and sublicense agreements provided for royalty payments from BPI to NEP and from NEP to L. Ron Hubbard. Then, IPT was formed to act as the holding company parent of BPI and NEP.

You informed us that IPT has two foreign trustees, Church of Scientology Religious Education College, a corporation, and Geoffrey Clunie, an individual. Our requests for additional information about IPT and its trustees and their relationship to the reorganized Scientology structure have not been answered. So, we see in place an entity that controls Scientology publications and E-meter production controlled by persons about whom no information has been provided. In the absence of any other explanation for this arrangement, we have no alternative but to conclude that the holding company's real purpose could be to benefit Mr. Clunie's private interest or the private interest of the College, just as intervening trusts and corporations were used to mask benefits to the private interest of L. Ron Hubbard.

Church of Spiritual Technology

It is also clear that NEP and BPI share in the commercial exploitation of these properties to benefit their own private interests. Mr. Hubbard's death did not effect the rights that NEP had already received from Mr. Hubbard prior to his death. Therefore, NEP and BPI are continuing to benefit from their part in the commercial exploitation of these properties even though Mr. Hubbard is no longer sharing in the benefits of the commercial exploitation. Even if Church of Spiritual Technology does eventually become the owner of the patents and copyrights formerly owned by Mr. Hubbard, the licenses granted to NEP will still be in effect. Thus the private benefit to NEP and BPI is ongoing even though Mr. Hubbard is dead and even though a number of new Scientology organizations have been created. Further, it has not been established that other new and old organizations about which our requests for detailed information remain unanswered are not sharing in private benefit. The potential beneficiaries include Author Services, Inc., SOR Management Services, Ltd, International Scientology Film Trust, and International Scientology Religious Trust.

The same persons who were in charge of Scientology prior to Mr. Hubbard's death hold positions of control or influence in some of these new organizations. For example, persons who hold positions of influence in the reorganized Scientology structure also hold positions in Author Services, Inc., a for-profit corporation formed to benefit L. Ron Hubbard. Lyman Spurlock, David Miscavige, Greg Wilhere, Terri Gamboa, Marion Meisler, Maria Starkey, and Becky Hay, persons who hold influence in the reorganized Scientology structure, also hold positions in Author Services, Inc. Author Services, Inc., is now performing the same function of "collecting royalties" for the beneficiary of L. Ron Hubbard's estate. Thus, as happened in the Church of California case, the income of an allegedly exempt organization (Church of Spiritual Technology should it obtain recognition of exemption) will be passed through a for-profit corporation which is controlled by persons who also hold positions of influence in the Scientology structure.

A similar problem exists with regard to the "central reserves" of Church of Scientology International and its subordinate churches. A nonexempt foreign entity, SOR Management Services, is being paid under a contract to "manage" these reserves. Again, the income of allegedly exempt organizations is being passed through a nonexempt organization controlled by persons who hold positions in, or act as nominees for, organizations in the topmost levels of the reorganized Scientology structure.

Church of Spiritual Technology

Moreover, a newly revealed organization, International SOR Trust, about which our inquiries remain unanswered, has an ongoing relationship with some of the organizations engaged in the exploitation of the properties formerly owned by Mr. Hubbard. For example, at one time International SOR Trust purchased the stock of Bridge Publications, Inc., from Church of Scientology of California and later disposed of the stock to International Publications Trust.

Furthermore, individuals closely associated with Cancorp Investment Properties, a for-profit British Columbia corporation allegedly formed to serve the private interests of L. Ron Hubbard, about which we inquired, have been in positions of influence in the reorganized Scientology structure. You refuse to provide detailed information about Cancorp Investment Properties or Religious Research Foundation, another organization allegedly formed to serve the private interest of L. Ron Hubbard, about which we also inquired.

The proliferation of associated entities also includes a number of other new "international" organizations, about which we have inquired but you have not responded to our inquiries. Since the Scientology operating structure is the only funding source for these organizations, they and the persons who control them are also sharing in the income generated by the activities of Church of Spiritual Technology, Church of Scientology International, and Religious Technology Center.

In light of the past history of Scientology's operations, this continuing sharing in the net earnings of Scientology by nonexempt entities is sufficient by itself to raise serious concerns about private benefit and inurement. Nonetheless, you have chosen to ignore these concerns or have provided incomplete or partial information which is not adequate to establish that private benefit and inurement are not flowing to nonexempt entities, some of which employ and are directed by the same people who hold positions of influence in the new Scientology operating structure. Such self-dealing does not lose its identity as private benefit and inurement merely because it is conducted through intermediary individuals and/or organizations.

Accordingly, we find that you are not exempt because you have failed to establish that you do not operate for the benefit of private interests and that your net income does not inure to private individuals contrary to the prohibition contained in section 501(c)(3) of the Internal Revenue Code. In addition, the refusal to continue the review agreed to in the letters of March 17, 1988, to Church of Spiritual Technology, Church of Scientology International, and Religious Technology

Church of Spiritual Technology

Center, concentrating on those areas of concern, and their refusal to fulfill the terms of the March 17, 1988, agreement prevents us from concluding that Scientology's operations have changed and that activities previously found to be disqualifying for purposes of section 501(c)(3) of the Code have been discontinued. Therefore, we conclude that you have not established that you are operated exclusively for exempt purposes as required by section 501(c)(3) of the Code.

Furthermore, the Service considers your failure to fulfill the terms of the March 17, 1988, agreement as constituting a failure to exhaust administrative remedies, as required by section 7428(b)(2) of the Code.

Contributions to your organization are not deductible under Code section 170.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax years shown above. You should file these returns with your key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of time is granted. Returns for later tax years should be filed with the appropriate service center as indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, you must initiate a suit in the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia before the 91st day after the date that this ruling was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. Processing of income tax returns and assessment of any taxes due will not be delayed because a declaratory judgment suit has been filed under code section 7428.

If you have questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

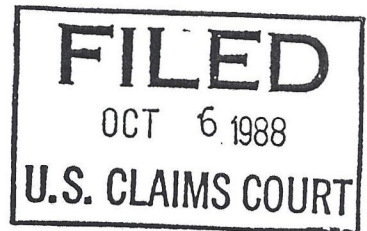
(Signed) E. D. Coleman

E.D. Coleman

Director, Exempt Organizations
Technical Division

ORIGINAL

UNITED STATES CLAIMS COURT



CHURCH OF SPIRITUAL TECHNOLOGY
A California Nonprofit Religious
Corporation,

Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant.

No. 581-88 T

Complaint for Declaratory
Judgment Pursuant to
Internal Revenue Code
Section 7428

PLAINTIFF'S EXHIBITS TO COMPLAINT

MONIQUE E. YINGLING
ZUCKERT, SCOUTT & RASENBERGER
888 Seventeenth Street, N.W.
Washington, D.C. 20006
202/298-8660

ATTORNEY FOR PLAINTIFF

OF COUNSEL:

THOMAS C. SPRING
1130 Seventeenth Street, N.W.
Suite 400
Washington, D.C. 20006
202/778-1168

October 6, 1988

<u>Item</u>	<u>Date</u>	<u>Description of Item</u>
927	05/23/88	CST Response to IRS Document Request (7 pages)
928	05/17/88	IRS Document Request 58 (1 page)
929	05/23/88	CST Response to IRS Document Request 58 (1 page)
930	05/23/88	Ex. 58 - Bank statement (3 pages)
931	05/20/88	IRS Document Request 59 (1 page)
932	06/13/88	CST Response to IRS Document Request 59 (1 page)
933	05/20/88	IRS Document Request 60 (1 page)
934	06/13/88	CST Response to IRS Document Request 60 (1 page)
935	05/20/88	IRS Document Request 61 (1 page)
936	06/13/88	CST Response to IRS Document Request 61 (1 page)
937	06/06/88	IRS Document Request 62 (1 page)
938	06/14/88	CST Response to IRS Document Request 62 (2 pages)
939	06/09/88	IRS Document Request 63 (2 pages)
940	06/14/88	CST Response to IRS Document Request 63 (1 page)
941	06/17/88	IRS Document Request 65 (1 page)
942	06/17/88	IRS Document Request 66 (1 page)
943	06/20/88	District Office memorandum to CST representative identifying documents for which they failed to make copies as required pursuant to agreement with applicants (3 pages)
[Item 943 is the final item relating to the District agents' review of CST's books and records.]		
944	7/08/88	Rosenberg letter to CST representative enclosing CST's adverse ruling (1 page)
945	07/08/88	IRS final Adverse Ruling (11 pages)
946	07/12/88	Rosenberg letter denying Applicants' request to supplement administrative record with chronology of concerns that led them to suspend the review (1 page)

Bare-Faced Messiah

THE TRUE STORY OF
L. RON HUBBARD

Russell Miller



MICHAEL JOSEPH
LONDON

MICHAEL JOSEPH

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stressed, 'and it is probably the only part of Scientology that really works. Also, you've got to realize that my father did not worship Satan. He thought he *was* Satan.'

It was wild stuff, perhaps a little too wild. Just like his father, Nibs lacked subtlety. Had he been more restrained, the interview might have made an impact. Instead, it simply strained the reader's credulity to such an extent that it was hard to decide who was the most deranged – L. Ron Hubbard Senior or L. Ron Hubbard Junior. In November 1983, an optimistic letter from Ron was distributed to Scientologists around the world to tell them how well everything was going. He described himself as 'ecstatic' with the state of management and confident that their legal problems were behind them. 'Those who were harassing Scientology in the past', he wrote, 'are beginning to present a panorama of coattails.' He explained that he had been working on very advanced research for the last two years which was 'opening the sky to heights not previously envisioned' and concluded, 'So I wanted to say hello and to tell you the results of an overview of the game and, boy, does that future look good . . . Love, Ron.'

Ron did not bother to mention how Mary Sue was making out at the Federal Correctional Institution in Kentucky, neither did he comment on the time-bomb ticking away under the church in the slight form of his disenchanted archivist and biographer Gerry Armstrong, who had taken thousands of documents with him when he left Scientology – documents that *proved* the founder of Scientology was a charlatan and a liar.

For many months church attorneys had been trying to force Armstrong to return the material, having initially succeeded in having the documents placed under court seal. In May 1984, the issue went to trial at Los Angeles Superior Court before Judge Paul G. Breckenridge. A procession of witnesses trooped into the courtroom to tell their dismal stories about life in Scientology, at the end of which the judge refused to order the return of the documents and delivered a damning verdict on Scientology: 'The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background and achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile.'

'At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating and inspiring his adherents. He has been referred to during the trial as a "genius", a "revered person", a man who was "viewed by his followers

in awe". Obviously, he is and has been a very complex person and that complexity is further reflected in his alter ego, the Church of Scientology . . . He has, of course, chosen to go into seclusion, but . . . seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena or service of summons.'

The judge then turned to Mary Sue, who had been released after serving a year of her prison sentence and had given evidence during the hearing: 'On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband. On the other hand her credibility leaves much to be desired. She struck the familiar pose of not seeing, hearing, or knowing any evil . . .'

The Church of Scientology immediately appealed against the decision of the court, ensuring that the documents remained under seal and unavailable to hordes of waiting newspapermen, at least for the time being.

Three weeks later, a judge in the High Court in London joined in the attack by memorably branding Scientology as 'immoral, socially obnoxious, corrupt, sinister and dangerous' and describing the behaviour of Hubbard and his aides as 'grimly reminiscent of the ranting and bullying of Hitler and his henchmen'.

Mr Justice Latey had been hearing a case involving a custody dispute over the children of a practising Scientologist and his wife, who had broken away from the cult. Awarding custody to the mother, the judge gave Scientology short shrift: 'It is corrupt because it is based on lies and deceit and had as its real objective money and power for Mr Hubbard, his wife and those close to him at the top. It is sinister because it indulges in infamous practices both to its adherents who do not toe the line unquestioningly and to those outside who criticize or oppose it. It is dangerous because it is out to capture people, especially children and impressionably young people, and indoctrinate and brainwash them so that they become the unquestioning captives and tools of the cult, withdrawn from ordinary thought, living and relationship with others.' As to the Hubbards, the judge considered the evidence clear and conclusive: 'Mr Hubbard is a charlatan and worse, as are his wife Mary Sue Hubbard and the clique at the top, privy to the cult's activities.'

Following the teaching of L. Ron Hubbard, most Scientologists assumed that such attacks were orchestrated and engineered by their multitude of enemies. In 1985, when CBS's '60 minutes' investigated Scientology and presenter Mike Wallace quoted the 'schizophrenic and paranoid' decision of Judge Breckenridge, the Reverend Heber Jentzsch, president of the Church of Scientology, had a ready, if

incomprehensible, reply: 'I traced back where that came from, this whole schizophrenic paranoia concept that he has. It came from Interpol. At that time, the president of Interpol was a former SS officer, Paul Dickopf. And to find that Judge Breckenridge quoted a Nazi SS officer as the authority on Scientology, I find unconscionable . . .'

On 19 January 1986, Scientologists around the world received their last message from L. Ron Hubbard. In Flag Order number 3879, headed 'The Sea Org and The Future', he announced that he was promoting himself to the rank of Admiral. Alongside the proclamation, in a Scientology magazine, was a colour photograph of the grey-haired Commodore in his Sea Org peaked cap. He was grinning broadly, with a definite twinkle in his eyes. He had never looked more like Puck.

Creston, population 270, elevation 1110 feet, straddles a dusty road junction twenty miles north of the old mission town of San Luis Obispo in California. On the main street, which at most times of the day is deserted, there may be found the Loading Chute Steak Dining-Room, Creston Realty, a post office with a flagpole and two phone booths outside and a ramshackle wooden building with peeling red paint and a slipped sign proclaiming it to be the Long Branch general store. Rusting automobile hulks sprouting weeds, flea-bitten tethered horses and satellite dishes are a common feature in the gardens of the unassuming houses thereabouts.

On O'Donovan Road, which runs south off the main street, there is a small library, a school, the Creston Community Church Bible Classroom and the meeting hall of Creston Women's Club. Attached to the front of the meeting hall is a notice board offering for sale a horse, a pick-up and a '69 sedan, both these last 'needing work'. It is evident that the good people of Creston have yet to share the affluence to be seen displayed so ostentatiously elsewhere in California.

But further along O'Donovan Road, the rural landscape is clearly manicured by money. Rolling hills of green velvet are stitched with white picket fences and the houses stand well back from the road behind meadows sprinkled with wild daisies and studded with twisted oak trees. Four miles out of the town there is a graded track off to the right and a metal sign indicates it is a private road leading to the Emmanuel Conference Centre. This track winds up the hillside along the edge of the Whispering Winds Ranch, a 160-acre spread which, according to local gossip, was once owned by the actor Robert Mitchum. The gates to the ranch may be found after about 400 yards and the track then forks to a small cedarwood house on the right, continuing on the left up the hill to the Camp Emmanuel ecumenical retreat. It is a quiet place, a perfect place to hide.

L. RON HUBBARD

Messiah or Madman?

by Bent Corydon
and L. Ron Hubbard, Jr.

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The Boss's Withholds Are Revealed in a "Wog Court"

The Church side (representing Hubbard) was confident they would win the Armstrong trial.

In their view, the biographical documents clearly belonged to L. Ron Hubbard. Mary Sue Hubbard (newly out of prison, on parole) had clear claims as custodian. She claimed that her personal letters being viewed by the likes of Flynn was tantamount to "mental rape."

The documents were now in the custody of the Los Angeles Superior Court.

The Church pushed for a speedy trial, without doubt at the insistence of Hubbard, who was secretly living a couple of hours by car from the courthouse, near San Luis Obispo.

Any legal maneuvers, at any cost, were being used to ensure those documents were speedily returned "to their proper owner."

While the legal bureau fought hard for the return of "L. Ron Hubbard's" documents, Church P.R. would later make claims that key documents involved were really "forgeries" planted by Government covert agencies.

June of 1984 the trial began.

Gerry Armstrong was on the stand for a couple of weeks, and the trial lasted a total of almost ten weeks. There were star witnesses brought on by Flynn who had known Hubbard and his finances intimately; and the Church brought on Mary Sue and even an old sea

captain called Thomas Moulton, who had served under Hubbard during World War II in the Northeast Pacific.

I was fascinated by the proceedings and disclosures on the day when I first attended, and after that I took off almost every day from my other pursuits and drove the 50 miles to L.A. to attend.

The opening arguments were presented for the Church and Mary Sue Hubbard, by Mr. Litt:

CHURCH'S OPENING ARGUMENT (excerpts):

This case is, in essence, a very simple case. . . .

Mr. Armstrong in 1980, January or February of 1980, petitioned within the church that he be appointed as an archivist to gather up materials that had been found in a building on church property in a place out in the desert called Gilman Hot Springs; it turned out to be a great deal of old material of the Hubbards which had been gathered. . . .

Now the issue, therefore, is whether or not these private materials can be used by the defendant and introduced into evidence.

They want these documents spread on the public record for use elsewhere. That is the intended objective.

It is a desire to intrude into these private materials so that they can be used in the public arena in various ways, as part of what is in reality a very intense litigation battle and public battle that exists throughout the country in which Mr. Flynn is involved with the Church. . . .

The documents themselves are private and are entitled to the privacy protections of the United States Constitution. . . .

ARMSTRONG'S OPENING ARGUMENT (by Flynn):

It was Armstrong's decision what to shred. He decided that it [the box presented to him by Brenda Black] shouldn't be shredded on an initial cursory examination of the box, and entrusted it to Laurel Sullivan.

Subsequently, after a lot of other documents in the identical location were shredded, Armstrong began to look through the box of documents and he found documents which he thought had, quote unquote, historical significance, and he wrote a petition to Hubbard asking for permission to collect more materials to complete the biography project which had actually started in 1973; and the evidence will be that Laurel Sullivan and others actually began this biography project. But at various times it got derailed because the authors, one being a fellow named Peter Thompkins, wouldn't write what Hubbard wanted him to write.

So eventually we come up to 1980. Armstrong writes to Hubbard. Hubbard approves it.

Now, there is a key fact here and that is that Hubbard is in the process of fleeing because his wife has just been convicted of a felony, [for] obstruction of justice for stealing documents.

There is a pending grand jury in New York for the frame-up of a journalist named Paulette Cooper, and there is evidence which was then coming in before the grand jury relative to Hubbard's involvement in that frame-up.

So Hubbard flees. Subsequently he is determined to be concealing himself as a fugitive, and a federal court in Tampa so found.

What happened is, because Mary Sue was on her way to jail, because L. Ron Hubbard was fleeing, the control mechanisms within the organization over the documents deteriorated, and no one really knew (and to this day, no one knows, other than Gerald Armstrong) really what is in those documents (Because he is the one—other than Omar Garrison—who has analyzed them for years).

So, even Hubbard himself did not precisely know what was in the documents.

Now, Armstrong begins to go through them. He gets the approval from Hubbard. . . .

Over a period of a year and a half Armstrong collects all these documents, turning them over to Garrison and Garrison begins to analyze them to write the book, and starts writing the book.

Well, Garrison . . . realizes that the representations that were made by L. Ron Hubbard right from his birth, right up to present . . . are false. . . .

So Garrison realizes that he can't write what Hubbard wants him to write. In fact, if he follows any journalistic ethics, he's got to write just precisely the opposite. . . .

Garrison rightfully, pursuant to the contract, has the documents.

Armstrong has no documents at this point. He's turned them over to Garrison. For the next five to six months he works intermittently with Garrison on the biography project because they are now going to write their own, and he also works for a law firm part-time, subsequently full time.

Thereafter the Church begins to harass Mr. Armstrong. . . . They do a number of things. For one thing they make him an enemy . . . and subject him to the Fair Game Doctrine.

They steal photographs from him. They are his own private materials which he actually received from a third party. . . .

They steal other materials from him, which had nothing to do with the collection of documents when he was working for Hubbard. . . .

At the same time, in light of a lot of harassing acts, he's got very

paranoid. He's seen what the Church of Scientology, over the last decade, has done to other people.

He knows what they have done in the criminal cases and he is fearful . . . that they are going to kill him.

He then goes back to Garrison and tells Garrison what is happening, and Garrison then gives him the documents . . . to defend himself.

So he goes to a lawyer; namely me, and the reason he came to me is because he thought that there were very few lawyers in the United States who were willing to litigate against the organization because of what they do. . . .

Garrison, for the next year thereafter, continues to prepare the biography and, in fact, comes up with a publisher. Approximately one month after Mr. Garrison comes up with a publisher for the true biography of L. Ron Hubbard, he is approached by the Church of Scientology, attorneys for Mr. Hubbard, and they basically make a deal with Mr. Garrison. He will give them back every document he has. He will not disseminate the information. He will give them back the manuscript that he has done based upon the documents, and he will be paid some, I understand, \$240,000, or something in that range . . . in the summer of 1983. . . .

There has been no conversion by Mr. Armstrong because he received the documents rightfully from Mr. Garrison . . ."

Regarding his examination of Mary Sue Hubbard, Michael Flynn told me he had mixed feelings about her. She had, after all, been made a scapegoat for Hubbard's crimes. On the other hand, she had done what she had done, and she did appear completely unrepentant.

In his examination of her, he did not appear to pull any punches.

During one exchange regarding Guardian's Order 121669, (covered in Chapter 11) where Mary Sue states:

" . . . make full use of all files of the organization to affect your major target [prevent infiltration]. These include personnel files, Ethics files, Dead files, central files, training files, *processing files* (emphasis added), and requests for refunds."

The office headed by her, the G.O., had files that contained a great deal of information taken from "processing files"—also known as "pre-clear or "auditing" files:

Q (by Flynn). Let me show you a document dated 27 September,

1978, Info re _____ [a woman's name omitted in respect of her right to privacy].

_____ 's auditing files start with July, 1963. It goes on to state who she has been promiscuous with, and masturbating with coffee grounds, that type of thing. Do you see that Mrs. Hubbard?

A. I see that Mr. Flynn.

Later Flynn, referring to a document shown the witness, and reading:

Q. "Dear Cindy. Here is pertinent data from _____'s PC [pre-clear] files." Do you know who Cindy is?

A. She might refer to Cindy Raymond? She worked in the U.S. Guardian's Office.

Q. And there are references on the first page about the person's, for example, masturbation practices, that type of thing, Mrs. Hubbard, at the bottom.

Witness: Yes. Have you got something on masturbation? You keep asking me about it.

Q (by Flynn). Do you think your organization was interested in those types of things from a person's PC files, Mrs. Hubbard?

A. I don't know. I am looking at documents that seem to indicate that there was, yes, Mr. Flynn.

Prior to, and following, this testimony there was testimony from witnesses that pre-clear folder information was routinely "culled" for discreditable information and sent to "B-1", (the intelligence bureau).

However, one high executive, Lymon Spurlock, testified that this practice was discovered by him to have been done by Guardian's Office personnel, who had since been removed. He added that he had never done such a thing and was outraged to discover such a practice.

Later, however, Nancy Dincalsy testified that she personally culled pre-clears' folders daily and sent "overt" lists to B-1 of the Guardian's Office, per standard orders. She also said that she worked as an auditor alongside Lymon Spurlock for many months, and that she observed him also "culling" PC folders for the G.O. daily.

Captain Moulton was brought into the courtroom like the inevitable surprise witness in "Perry Mason." He was a handsome man in his

late sixties, over six feet tall, with grey hair and a walking cane. The very image of a retired ship's captain.

Church lawyer Petersen wore an air of triumph as he marched in with Captain Moulton. With a grin, he made an aside to Flynn. I couldn't hear the words exactly. It wasn't necessary. The intent was apparent: "We got'cha now!"

It quickly became clear that Captain Moulton had served under Hubbard off the coast of Oregon, after which Hubbard was removed by Admiral Fletcher for exceeding orders. . . .

Q [by Flynn]. He told you that he was injured by a Japanese Machine gun?

Captain Moulton affirmed that Hubbard had told him the story while they were in training together in a naval training class in Miami.

Q. Did he describe the circumstances under which he was injured by the Japanese machine gun?

A. Yes, in some detail; not entirely.

Q. What did he tell you?

A. That he had been in Soerabaja at the time the Japanese came in or in the area of Soerabaja and that he had spent some time in the hills in back of Soerabaja after the Japanese had occupied it.

Q. Now, Soerabaja was where, sir?

A. That is a port on the north part of Java in the Dutch East Indies.

Q. So you understood from Captain Hubbard that he had been in Java fighting the Japanese and was hit by machine gun fire?

A. Not quite as you put it. He had been landed, so he told me, in Java from a destroyer named the *Edsel* and had made his way across the land to Soerabaja, and that is when the place was occupied. When the Japanese came in, he took off into the hills and lived up in the jungle for some time until he made an escape from there.

Q. So you believed Captain Hubbard at the time?

A. Certainly, I had no reason not to.

Q. Did he tell you exactly where he was hit by the machine gun fire?

A. In the back, in the area of the kidneys, I believe on the right side.

Q. And did he tell you how long he remained hiding in the hills with these machine gun wounds before he was removed from the combat area?

A. I know that he told me he had made his escape eventually to Australia. I don't know just when it was. He apparently—he and another chap—sailed a life raft, I believe, to near Australia where they were picked up by a British or Australian destroyer.

Q. And that would have been late 1941, early 1942?

A. I would imagine it would have to have been early '42 because it would take some time from December 7.

Flynn proceeded to show naval documents, one stating that Hubbard was ordered to Australia on November 24, 1941; and that he left on December 8, 1941, from the United States.

Captain Moulton noted that if Hubbard had been in intelligence, the document may have been spurious. "An intelligence officer, as far as I know, has all sorts of spurious letters stating where he is sent, when he got there."*

Another document was shown to him dated 14 February 1942, by the United States Naval Attaché, Melbourne, Australia (the 14th of February would have been roughly one month to six weeks after he was "shot in the back by a Japanese machine gun").

Captain Moulton, like so many others, had been completely taken in by Hubbard.

Flynn read part of it aloud:

The subject officer arrived in Brisbane via SS *President Polk*. He reported to me that he was ordered to Manila for duty and asked for permission to leave the SS *President Polk* until a vessel offering a more direct route to his destination was available. I authorized him to remain in Brisbane for future transportation to his destination. By assuming unauthorized authority and attempting to perform duties for which he has no qualifications, he became *the source of much trouble*. [Emphasis added]

On February 11, 1942, I sent him dispatch orders to report to the commanding officer USS *Chaumont* for passage to the United States, and upon arrival report to the commandant 12th Naval District for future assignment. This officer is not satisfactory for independent duty assignment. He is garrulous and tries to give impressions of his importance. He also seems to think that he has unusual ability in most lines. These characteristics indicate that he will require close supervision for satisfactory performance of any intelligence duty.

*This is the essence of the Church's "sheepdipping" argument. They have an "expert" who claims that the "Armstrong" documents relating to Hubbard's military history were falsely placed there because Hubbard was in "counter-intelligence."

In fact, Hubbard spent less than two months in "intelligence" in Australia. Evidence indicates that he was engaged in the routing of ship movements.

Other documents which put Hubbard in a better light were also among the Armstrong documents, but the Church makes no claim that these were "sheepdipped." The "sheepdip" argument was apparently not given any weight by the Court.

Witness Kima Douglass (Hubbard's "medical officer," 1976-1980).

Q. Now you have heard the name Ernest Hartwell mentioned?

A. Yes.

Q. Were you in the presence of L. Ron Hubbard when he ordered Hartwell's PC files to be culled?

A. Yes. He ordered all crimes listed and signed by the Hartwells before they left. I believe the Hartwells were incarcerated for a short while.

Q. Now did you have the opportunity to personally observe L. Ron Hubbard between 1978 and 1980 with regard to irrational or abusive behavior?

A. Yes.

Q. And what did you observe?

A. That there were times he was irrational.

Q. And was he abusive?

A. I saw him hit one person. I consider that abusive.

Q. Did you personally see L. Ron Hubbard order people to the RPF for minor infractions?

A. Yes, I was one of them.

Q. And what was the infraction?

A. I had—LRH had a kidney infection. We had taken the urine test in to be examined. The urine test came back that he had streptococci bacteria and we started treating him with an antibiotic.

Six weeks later I did another test because he wasn't getting any better. We brought the test to him and it showed different bacterial infection at that point and he was very angry and put me in the RPF.

It was not an RFP as it later became when Gerry [Armstrong] was there. I was put into Coventry for five weeks and nobody was allowed to talk to me.

Q. Are you familiar with the culling of PC files at winter headquarters and summer headquarters at the Special Unit in 1977 and 1978?

A. Yes.

Q. And what did you see with regard to the culling of PC folders?

A. I have culled PC folders myself. I have seen other staff members culling folders.

Q. For what purpose?

A. To be sent to B-1.

Q. And B-1 is what?

A. Guardian Office Intel.

Q. And were you personally familiar with his health history?

A. Yes.

Q. And because of the nature of the technology of Scientology, his health history was held out to the public as being superior?

A. Yes.

Q. And you know in fact that his health history was not what it was represented to the public as; is that correct?

A. Correct.

Q. And on at least one occasion you had saved L. Ron Hubbard's life from a pulmonary embolism?

A. I got him into hospital. That saved his life. I didn't personally save his life, but he had refused to go into a hospital and I countermanded his order, which was not a normal thing. But I countermanded his order on two occasions. That was one of them. . . .

Q. Mrs. Douglas, was one of your duties inside the organization to courier cash around the world?

A. Yes.

Q. Have you crossed the United States in excess of a hundred times with millions of dollars in cash?

A. Well, not in excess of a hundred. I have not crossed the United States in excess of a hundred. It has been under that, but I have couriered hundreds of thousands of dollars out of the United States during the period when it was actually a criminal action, as it was actually only a certain amount of money to be allowed to be taken out of the United States, and I knowingly committed that action at the time.

Q. Do you know where the money was taken at that time?

A. To the ship. I took them to the flagship myself.

Q. Did you ever take any moneys to Luxembourg or Lichtenstein bank accounts:

A. Yes, I did.

Q. And what amounts?

A. I took some from the ship. I can't give you an exact amount, but it was in excess of a million.

Q. Did he suffer from pneumonia?

A. Once in a while.

The Court: *Did he have any bullet wounds in his back?*

Witness: *No sir.*

Cross-examination of Howard Shomer by Mr. Harris (attorney for the Church):

Let me ask you this, Mr. Shomer: You say when Mr. Hubbard was aboard the ship, he controlled everything under all circumstances all the time; is that right?

A. That is too inclusive. I mean, I didn't have to ask him to go to the bathroom.

Q. You said he managed it all the time.

A. We are talking about—let's get down to brass tacks. We are talking about the management of the Scientology network throughout the world, and everything that had any importance to do with the running of the ship otherwise, that he was the almighty that ran everything, yes. . . .

Homer's daughter, who had been brought into the Sea Org by him with the highest of dreams and hopes for them both, had been forced to "disconnect" from him after he left.

He had escaped from Gilman Hot Springs in early 1983. There he had been left under guard after an all night "gang bang sec check." During that night he was supposed to confess that he was an agent of the FBI, CIA, IRS, KGB or whatever. When he failed to do so, David Miscavage and Steve Marlowe spat in his face. They were both chewing chaw tobacco in anticipation of the event.

On the 20th of June, Judge Brekenridge issued his findings. He found that the Church and Mary Sue Hubbard were not to have their documents back "at least at this time," and that they could be made public (unless specifically ordered sealed) and used as admissible evidence in current, pending and future court cases.

Armstrong was entitled to judgment and costs.

He found that neither "The Church" nor Mary Sue Hubbard had "clean hands."

He found that Armstrong had permission to have the materials and acted properly in turning them over to Garrison and later retrieving them for his defense and then turning them over to Flynn as his attorney.

JUDGE BREKENRIDGE (excerpts):

As indicated by its factual findings, the court finds the testimony of Gerald and Joycelyn Armstrong, Laurel Sullivan, Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas, and Howard Shomer to be credible, extremely persuasive, and the defense of privilege or justification established and corroborated by this evidence. . . . In all critical and important matters their testimony was precise, accurate,

and rang true. The picture painted by these former dedicated Scientologists, all of whom were intimately involved with LRH, or Mary Sue Hubbard, of the Scientology Organization, is on the one hand pathetic, and on the other, outrageous.

Each of these persons literally gave years of his or her respective life in support of a man, LRH, and his ideas. Each has manifested a waste and loss or frustration which is incapable of description. Each has broken with the movement for a variety of reasons, but at the same time, each is still bound by the knowledge that the Church has in its possession his or her most inner thoughts and confessions, all recorded in "pre-clear" (P.C.) folders, or other security files of the organization, and that the Church or its minions is fully capable of intimidation or other physical or psychological abuse if it suits their ends. The record is replete with evidence of such abuse.

In addition to violating and abusing its own members' civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies.

The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background and achievements.*

The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile.

At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating, and inspiring his adherents.

He is referred to during the trial as a "genius," a "revered person," a man who was "viewed by his followers in awe."

Obviously, he is and has been a very complex person, and that complexity is further reflected in his alter ego, the Church of Scientology. Notwithstanding protestations to the contrary, this court is satisfied that LRH runs the Church in all ways through the Sea Organization, his role of Commodore, and the Commodore's Messengers.

He has, of course, chosen to go into "seclusion," but he maintains contact and control through his top messengers.

*On "60 Minutes" Heber Jenzsch, the Church's senior public relations man, responded to the Judge's comments about Hubbard. He had, he said, investigated what was the basis of the judge's decision: "I traced back where that came from, this whole schizophrenic/paranoia concept that he has. It came from Interpol. At that time the president of Interpol was a former SS officer, Paul Dickoph. And to find that Judge Brekenridge quoted a Nazi SS officer as the authority on Scientology, I find unconscionable!"

Seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena and service of summons.

LRH's wife, Mary Sue Hubbard, is also a plaintiff herein. On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband.

On the other hand her credibility leaves much to be desired. She struck the familiar pose of not seeing, hearing, or knowing any evil. Yet she was the head of the Guardian's Office for years and, among other things, authored the famous order "G.O. 121669" which directed the culling of supposedly confidential P.C. files/folders for purposes of internal security.

In her testimony she expressed the feeling that defendant [Armstrong] subjected her to mental rape.

In determining whether the defendant [Armstrong] reasonably invaded Mrs. Hubbard's privacy, the court is satisfied the invasion was slight, and the reasons and justification for defendant's conduct manifest.

The court is satisfied that he did not unreasonably intrude upon Mrs. Hubbard's privacy under the circumstances by in effect simply making his knowledge that of his attorneys.

It is, of course, rather ironic that the person who authorized G.O. 121669 should complain about an invasion of privacy.

The practice of culling supposedly confidential "P.C. folders or files" to obtain information for purposes of intimidation and/or harassment is repugnant and outrageous.

The Guardian's Office, which plaintiff headed, was no respecter of anyone's civil rights, particularly that of privacy. . . .

My belief is that Hubbard's rage, following Brekenridge's decision and statements about his being a "pathological liar" and a "paranoid schizophrenic," bordered on the hysterical. I'm convinced that he must have made demands that Flynn and Armstrong's "crimes" be uncovered immediately! *His "scriptures" state as an absolute fact that enemies of L. Ron Hubbard have crimes of magnitude!* While I have no evidence of this, the following events would not, I believe, have occurred without Hubbard's rage as prime stimulus. Acting on that rage, while fully believing Hubbard's raving accusations, Church agents, I believe, proceeded to become patsies for some uncommon thieves. . . .

A PIECE OF BLUE SKY

*Scientology, Dianetics
and L. Ron Hubbard Exposed*

by Jon Atack

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tempts to prevent distribution of his *Bare-Faced Messiah* in England, Canada, Australia and the United States.

In 1983, the Legal office of the Church admitted that it did not know how many suits were outstanding in England alone. So many writs had been issued for libel it had lost track. In 1968, *thirty-eight* libel suits were dropped by the Church in England. Cases which continued were uniformly lost by the Church.

Boston attorney Michael Flynn won fourteen of the sixteen complaints brought against him by the Church, the remaining two being withdrawn. The Church has from time to time filed suits against the FBI, the IRS, the Justice Department, Interpol and even against Henry Kissinger (for \$800 million).

Scientology has filed hundreds of cases over the years. Most have been withdrawn before trial, but in Britain suits against a former Police Commissioner and against Member of Parliament Geoffrey Johnson-Smith were both lost by the Church. In return, there have been hundreds of suits filed against Scientology. The Church was forced to pay substantial damages to former Health Minister, Kenneth Robinson, and withdraw their allegations that he had instigated "death camps," likened by the Church to Belsen and Auschwitz.¹

Also in the legal arena are the reports of the many Commissions of Inquiry, and of several U.S. grand jury investigations. These run to tens of thousands of pages. Two books have been written about the attempt made by the Guardian's Office to take over the National Association of Mental Health in the U.K. in the late 1960s, which also ended in a ruling against Scientology in the English High Court.

Of all the court cases, two stand out. Their verdicts came down within a month of each other: one in Los Angeles, the other in London. The first, and perhaps the most revealing to date, was the case brought by the Scientologists against Gerald Armstrong.

Armstrong had joined the Sea Org in 1971. Over the years he held various positions close to Hubbard. During the trial he gave detailed testimony of these periods, and of his time in the Rehabilitation Project Force. His accounts highlighted the extreme duress of life in the Sea Org.

Armstrong saved over twenty boxes of Hubbard letters, diaries and photographs from the shredder at Gilman Hot Springs. On January 8, 1980, he wrote to Hubbard asking permission to collect material for a biography. A few years earlier Hubbard had lamented that no biography could be written because his personal documents had been stolen,

and the great Conspiracy against him would by now have altered all public records.

Far from being stolen by the Russians in the early 1950s, as Hubbard had claimed, his personal archive had quite remarkably been preserved. When the Hubbards left Washington for Saint Hill, in spring 1959, the boxes had been put into storage, where they stayed until the late 1970s. Somehow they had been shipped to La Quinta, and thence to Gilman. Armstrong was excited by the discovery, as it would no longer be necessary to rely on the supposedly corrupted government records, with Hubbard's personal documents in hand.

Hubbard approved Armstrong's request only days before he went into deep hiding. Armstrong was titled "L. Ron Hubbard Personal Public Relations Office Researcher," and he collected over half-a-million pages of material by the end of 1981.

Omar Garrison, who had already written two books favorable to Scientology, was contracted to write the biography in October 1980, and the Archives were made available to him. Armstrong became Garrison's research assistant, copying tens of thousands of the most relevant documents for Garrison's use.

In his judgment in the Scientologists' case against Armstrong, Judge Breckenridge explained the gradual erosion of Armstrong's faith in Hubbard:

During 1980 Defendant Armstrong remained convinced of Hubbard's honesty and integrity and believed that the representations he had made about himself in various publications were truthful. Defendant Armstrong was devoted to Hubbard and was convinced that any information which he discovered to be unflattering of Hubbard or contradictory to what Hubbard has said about himself, was a lie being spread by Hubbard's enemies. Even when Defendant Armstrong located documents in Hubbard's Archives which indicated that representations made by Hubbard and the Organization were untrue, Defendant Armstrong would find some means to "explain away" the contradictory information.

Slowly, however, throughout 1981, Defendant Armstrong began to see that Hubbard and the Organization had continuously lied about Hubbard's past, his credentials, and his accomplishments.

Armstrong began a campaign to correct the numerous misrepresentations, but met with considerable resistance. In November 1981, he was ordered back to Gilman from Los Angeles. He was told by senior

Church official Norman Starkey that he was to be Security-checked. There was no desire to correct Hubbard's biography. To this day, Scientology Orgs sell books which contain the very biographies which Armstrong had proved false; Hubbard's *Mission into Time* is the worst example of many.

On November 25, 1981, Armstrong wrote to Commodore's Messenger Cirrus Slevin:

If we present inaccuracies, hyperbole or downright lies as fact or truth, it doesn't matter what slant we give them, if disproved the man will look, to outsiders at least, like a charlatan. This is what I'm trying to prevent and what I've been working on the past year and a half.

A few weeks later, Armstrong decided to leave the Church. Before leaving, he worked desperately hard to ensure that Omar Garrison had all of the documents necessary for an honest biography. After leaving, he maintained contact with the Biography Project, even helping to find documents in the Archives when the new Archivist was unable to do so, for two months following his departure. Judge Breckenridge's opinion continues:

On February 18, 1982, the Church of Scientology International issued a "Suppressive Person Declare Gerry Armstrong," which is an official Scientology document issued against individuals who are considered enemies of the Organization . . .

Defendant Armstrong was unaware of said Suppressive Person Declare until April of 1982. At that time a revised Declare was issued on April 22, 1982. Said Declare charged Defendant Armstrong with eighteen different "Crimes and High Crimes and Suppressive Acts Against the Church." The charges included theft, juggling accounts, obtaining loans on [sic] money under false pretenses, promulgating false information about the Church, its founder, and members, and other untruthful allegations designed to make Defendant Armstrong an appropriate subject of the Scientology "Fair Game Doctrine." Said Doctrine allows any suppressive person to be "tricked, cheated, lied to, sued, or destroyed."

. . . from his extensive knowledge of the covert and intelligence operations carried out by the Church of Scientology of California against its enemies (suppressive persons), Defendant Armstrong became terrified and feared that his life and the life of his wife were in danger, and he also feared he would be the target of costly and harassing lawsuits. In addition, Mr. Garrison became afraid for the security of the

documents and believed that the intelligence network of the Church of Scientology would break and enter his home to retrieve them. Thus Defendant Armstrong made copies of certain documents for Mr. Garrison and maintained them in a separate location.

Armstrong, with Garrison's permission, made copies of about 10,000 pages of these documents, and deposited them with attorneys for safe keeping. Michael Flynn was one of these attorneys.

On August 2, 1982, the Church of Scientology of California filed suit against Gerald Armstrong for Conversion (a form of theft); breach of fiduciary duty (breach of trust); and breach of confidence. Mary Sue Hubbard joined the suit against Armstrong as an "intervenor," and added a charge of "Invasion of Privacy" to the suit. Judge Breckenridge's opinion continues:

After the within suit was filed . . . Defendant Armstrong was the subject of harassment, including being followed and surveilled by individuals who admitted employment by Plaintiff; being assaulted by one of these individuals; being struck bodily by a car driven by one of these individuals; having two attempts made by said individuals apparently to involve Defendant Armstrong in a freeway automobile accident; having said individuals come onto Defendant Armstrong's property, spy in his windows, create disturbances, and upset his neighbors. During trial when it appeared that Howard Schomer (a former Scientologist) might be called as a defense witness, the Church engaged in a somewhat sophisticated effort to suppress his testimony.

After hearing four weeks of testimony, and deliberating for two weeks, Judge Breckenridge ruled that Gerald Armstrong was entitled to judgment and costs. The preceding quotations come from a fifteen-page appendix to the opinion. The main body of the decision is one of the most forceful statements ever made against the Church of Scientology. Of the Founder and his Church, Judge Breckenridge wrote:

In addition to violating and abusing its own members' civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements. The writings and documents in evidence additionally reflect his egoism,

greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile. At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating, and inspiring his adherents. He has been referred to during the trial as a "genius," a "revered person," a man who was "viewed by his followers in awe." Obviously, he is and has been a very complex person, and that complexity is further reflected in his alter ego, the Church of Scientology. Notwithstanding protestations to the contrary, this court is satisfied that LRH runs the Church in all ways through the Sea Organization, his role of Commodore, and the Commodore's Messengers. He has, of course, chosen to go into "seclusion," but he maintains contact and control through the top messengers. Seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena or service of summons.

LRH's wife, Mary Sue Hubbard is also a plaintiff herein. On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband. On the other hand her credibility leaves much to be desired. She struck the familiar pose of not seeing, hearing, or knowing any evil. Yet she was the head of the Guardian Office for years and among other things, authored the infamous order "GO [Guardian's Order] 121669" which directed culling of supposedly confidential P.C. [Preclear] files/folders for the purposes of internal security. In her testimony she expressed the feelings that defendant by delivering the documents, writings, letters to his attorneys, subjected her to mental rape. . . . The court is satisfied that he [Armstrong] did not unreasonably intrude upon Mrs. Hubbard's privacy under the circumstances. . . . It is, of course, rather ironic that the person who authorized G.O. order 121669 should complain about an invasion of privacy. The practice of culling supposedly confidential "P.C. folders or files" to obtain information for purposes of intimidation and/or harassment is repugnant and outrageous. The Guardian's Office, which plaintiff headed, was no respecter of anyone's civil rights, particularly that of privacy.

The documents involved in the case were extensive. They included copies of letters from Hubbard to his father, to his first two wives, and to the children of his first marriage. They also included Hubbard's teenage diaries, his Boy Scout records, poems, and the manuscript of an unpublished book called *Positive Mental Therapy*. Also included were Hubbard's letters to Mary Sue Hubbard over the years, where he said exactly what he was doing while researching the "Technology" of Scientology. For example, there are letters sent from North Africa in late 1966, to Mary Sue at Saint Hill, which give details of the drugs

Hubbard was taking to "research" the most secret of Scientology's levels, OT3.

During the course of the trial, the judge heard testimony from Armstrong; his wife Jocelyn; Laurel Sullivan, who had been Armstrong's senior on the Biography Project; the proposed author Omar Garrison; Hubbard's nurse Kima Douglas (who left Hubbard in January 1980); and former Author Services Incorporated Treasury Secretary Howard Schomer.

Omar Garrison, who had been commissioned to write the biography, had this to say of the documentation Armstrong provided:

The inconsistencies were implicit in various documents which Mr. Armstrong provided me with respect to Mr. Hubbard's curriculum vitae, with respect to his Navy career, with respect to almost every aspect of his life. These undeniable and documented facts did not coincide with the official published biography that the church had promulgated.

Garrison intended to complete the biography, and continued with this work through 1982. In June 1983, he agreed to a settlement with the Church. The Church wanted to be absolutely sure that the manuscript wasn't made public. Garrison reluctantly agreed. He too had been followed by private detectives, "bumper to bumper." However, Garrison retained copies of documents from the Hubbard archives to ensure the church's good behavior.

Jocelyn Armstrong testified that she had worked on a project where Mission Holders were to sign backdated contracts, Board minutes and resignations.

Kima Douglas was Hubbard's personal Medical Officer from 1975 until her departure on January 16, 1980. From 1977, she was with Hubbard on a daily basis. She was also the head of no less than *fourteen* Scientology corporations, and had written undated resignations from each. Among these was the Religious Research Foundation, which was used to channel monies from the Flagship, and later the Flag Land Base, into non-Church accounts controlled by Hubbard.

Douglas testified that she was with Hubbard when he approved Armstrong's request to collect material for a biography. She had also been present when Hubbard had ordered that supposedly confidential counselling folders should be "culled" for admissions of crimes, and anti-social or immoral actions, for future use. Douglas admitted that she had seen Hubbard display "irrational and abusive" behavior, to

the extent of striking someone. She also revealed the extent of Hubbard's ill health throughout the years she served him.

The myth of L. Ron Hubbard was badly fractured. It seemed that his mesmeric hold over Scientologists, whether Church members or Independents, was slipping. The trance could only be maintained through a stubborn refusal to consider the material now available.

The Judgment in the Armstrong case was filed on June 22, 1984, just as Justice Latey was preparing to hear a child custody case in London.